

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

UNITED STATES OF AMERICA . Criminal No. 1:16cr265
 .
 vs. . Alexandria, Virginia
 . December 11, 2017
 NICHOLAS YOUNG, . 2:00 p.m.
 .
 Defendant. .
 .

TRANSCRIPT OF JURY TRIAL
BEFORE THE HONORABLE LEONIE M. BRINKEMA
UNITED STATES DISTRICT JUDGE

VOLUME I

APPEARANCES:

FOR THE GOVERNMENT: JOHN T. GIBBS, AUSA
GORDON D. KROMBERG, AUSA
EVAN N. TURGEON, SAUSA
United States Attorney's Office
2100 Jamieson Avenue
Alexandria, VA 22314

FOR THE DEFENDANT: NICHOLAS D. SMITH, ESQ.
David B. Smith, PLLC
108 North Alfred Street
Alexandria, VA 22314
and
LINDA MORENO, ESQ.
Linda Moreno P.A.
511 Avenue of the Americas
No. 2
New York, NY 10011

ALSO PRESENT: SA NICHOLAS CASLEN
NICHOLAS ENNS
FABIAN VERA

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1 NOTE: The case is called to be heard in the presence
2 of the jury panel as follows:

3 JURY PANEL IN

4 THE CLERK: Criminal case 16-265, the United States
5 of America versus Nicholas Young. This case comes on for trial
6 by jury.

7 Will counsel please note their appearances for the
8 record.

9 MR. KROMBERG: Good afternoon, Your Honor. Gordon
10 Kromberg, John Gibbs, and Evan Turgeon for the United States.

11 With us at the second counsel table is FBI Special
12 Agent Nicholas Caslen and paralegal specialist Mr. Fabian Vera.

13 THE COURT: Good afternoon.

14 MR. SMITH: Good afternoon, Your Honor. Nicholas
15 Smith for defendant Nicholas Young. With me is Ms. Linda
16 Moreno as counsel.

17 MS. MORENO: Good afternoon.

18 MR. SMITH: And we also have a paralegal here, who is
19 another Nicholas, Nicholas Enns. So we have four Nicholases in
20 this case.

21 MS. MORENO. Thank you, Your Honor.

22 THE COURT: Good afternoon.

23 MS. MORENO: Good afternoon.

24 THE COURT: And good afternoon, ladies and gentlemen.
25 Thank you very much for being at court this afternoon.

1 You are being considered for service on a jury that
2 is going to hear a criminal case brought by the United States
3 of America versus the defendant, Nicholas Young.

4 Now, this is the time of the trial called voir dire,
5 that's the technical legal term basically for jury selection.
6 We are going to choose 14 of you to act as the jury in this
7 case.

8 Now, if you are selected to be a juror, I want you to
9 think about yourself as if you were a judge, just like me. I
10 can't give each of you a black robe to wear while you're
11 sitting in the jury box, but that is the role that you are
12 going to play because jurors are judges, specifically you are
13 judges of the facts of the case.

14 Now, you know yourself that if you had to be in court
15 in front of a judge, you would want to make sure that that
16 judge didn't have any preconceptions, any biases, or any ideas
17 about the case that might taint his or her decision making.
18 And that's the background that we have for asking the questions
19 that we're going to ask you today.

20 Now, I ask the questions, and I am going to use the
21 word "you" in the question, but as you think about the question
22 I want you to apply it not just to yourself individually, but
23 also to any of your immediate family members or close personal
24 friends.

25 Now, if you think that you do have an answer to the

1 question, the procedure will be for you to raise your hand, you
2 will need to stand and state your name, and then we will have a
3 discussion about the question and your answer.

4 If at any point there is something that you feel is
5 very personal and sensitive and you don't want to raise it in
6 front of everybody in the courtroom, the procedure is for you
7 to ask to approach the bench. You will then come up on this
8 side, and the prosecutors will follow you. My court reporter
9 has to get up here first. So you have to wait for him or her,
10 I have two different court reporters working on this case, to
11 come up first. And then we will have the juror come up, and
12 the prosecutors on the other side, the defense team comes up,
13 and we will have a private conversation with you.

14 Now, any time I am having what is called a bench
15 conference, because this is the bench, we put on that funny
16 white noise machine. And that is meant to block your hearing
17 of what's going on up here, but it's also difficult for us to
18 hear over that machine. So it's really important, whenever we
19 have a bench conference, whether it's during voir dire or
20 during the trial itself, you can stand up and stretch, move
21 around a little bit, but if you start to talk, it creates too
22 much other noise in the courtroom.

23 Now, our first order of business is going to be to
24 call attendance. When you hear your name called, please stand
25 and say "here" or "present," and then you may have a seat.

1 NOTE: The jury panel is called and sworn.

2 THE COURT: All right, ladies and gentlemen, now I am
3 going to give you a very brief overview as to what the issues
4 are in this case. And the first question I am going to be
5 asking you is whether you think you may have seen, read, heard,
6 or know anything at all about this case?

7 Nicholas Young, the defendant, is a former police
8 officer with the Washington Metro Transit Authority and has
9 been charged with three counts. Count 1 alleges that between
10 December 3, 2015, and August 2, 2016, in Fairfax County, within
11 this district and elsewhere, that he knowingly and unlawfully
12 attempted to provide material support and resources to ISIL,
13 that is the Islamic State of Iraq and the Levant, a group
14 designated as a foreign terrorist organization, or FTO.

15 And more specifically, the Government alleges that
16 the defendant attempted to provide this support by providing
17 misleading information to the Federal Bureau of Investigation
18 about the location of a person known to him as Mo and whom
19 Young believed had traveled from the United States to Syria to
20 join ISIL.

21 In addition, the Government alleges that Young
22 provided gift cards and gift card codes to Mo, whom he believed
23 would use those gift cards and gift card codes to help ISIL
24 recruit members.

25 In Count 2 he is charged with obstruction of justice.

1 Specifically that between December 3 and 5 of 2015 in Fairfax
2 County, he knowingly, unlawfully, and corruptly attempted to
3 obstruct an official proceeding by attempting to deceive FBI
4 investigators as to the destination and purpose of a trip made
5 by Mo, who Young believed had traveled from the United States
6 to join Syria -- I'm sorry, had traveled from the United States
7 to Syria to join ISIL.

8 And in Count 3, he is charged with another count of
9 obstruction of justice, this time involving a text message that
10 he sent on November 20, 2014, to a cell phone he believed was
11 used by Mo in an attempt to make it falsely appear to the FBI
12 that Mo had left the United States for a vacation tour in
13 Turkey, whereas he believed that Mo had gone to Syria to join
14 and fight for ISIL.

15 The defendant denies that he is guilty of these
16 charges and will argue that he lacked any predisposition to
17 commit the charged crimes and instead was induced by the
18 Government to do what he did. Specifically, he will argue that
19 Khalil, whom he met in 2010, and later Mo, were at all times
20 paid agents of the federal government. And that but for Khalil
21 and Mo befriending him, none of the conduct for which he is
22 charged would have occurred.

23 Now, there has been some publicity about this case.
24 Last week there were publications both online and in the Sunday
25 portion of the Washington Post about this case. There has also

1 I think been some other online information about it over the
2 past several months.

3 I want to know whether any of you believe you have
4 seen, heard, read, or in any respect think you might know
5 something about this case?

6 If you have such an answer, you need to raise your
7 hand. And I am going to start -- I have to point to you, it is
8 very rude, but we do it this way. And I am going to start on
9 the left.

10 So in the first row on the left, there is no -- yes,
11 sir, your name, please.

12 JUROR DIAZ: Ariel Diaz, juror 18.

13 THE COURT: Wait, you have to speak slowly so I can
14 hear you. What's the last name?

15 JUROR DIAZ: Diaz, number 18. I just listened to the
16 news and I heard on the news about Nicholas Young.

17 THE COURT: And that was recently?

18 JUROR DIAZ: I'm sorry?

19 THE COURT: Was that recent?

20 JUROR DIAZ: I guess I listened to maybe within the
21 past week.

22 THE COURT: Now, is there anything you heard in that
23 news broadcast that you think has tainted your mind?

24 In other words, do you feel you have made up your
25 mind about any of the issues in this case from what you heard

1 on the news?

2 JUROR DIAZ: Only that --

3 THE COURT: Well, I don't want to know what you
4 heard. But I just want to know, do you think it might have
5 affected how you would think about this case?

6 JUROR DIAZ: I don't know, actually. I just heard it
7 and just knew he was on a sting operation.

8 THE COURT: All right. But again --

9 JUROR DIAZ: I don't have -- yeah, I mean, without
10 seeing, hearing all the specifics, I can't really say.

11 THE COURT: Have you made -- do you think you have
12 made up your mind about any issues?

13 JUROR DIAZ: No.

14 THE COURT: All right. Thank you, Mr. Diaz.

15 Now, the lady behind you -- yes, ma'am, your name,
16 please.

17 JUROR BARRETTE: Kristin Barrette.

18 THE COURT: Hold on, we have to find you on the list.
19 All right. How do you spell the last name?

20 JUROR BARRETTE: Kristin Barrette, B-a-r-r-e-t-t-e.

21 THE COURT: Number 4. All right. Yes, ma'am.

22 JUROR BARRETTE: I am not entirely certain that this
23 is the same case, but there is actually a gentleman who was
24 arrested in my former neighborhood for something
25 extraordinarily similar. And if that's the case --

1 THE COURT: Do you live in Alexandria?

2 JUROR BARRETTE: No. I used to live in Fairfax.

3 THE COURT: In the Alexandria section of Fairfax?

4 JUROR BARRETTE: No, ma'am.

5 THE COURT: All right.

6 JUROR BARRETTE: It was on Heron Ridge Drive in
7 Fairfax.

8 THE COURT: That's not this defendant. But do you --
9 is it? It is. All right.

10 Do you feel that might affect your ability to judge
11 this case?

12 JUROR BARRETTE: Well, uhmm --

13 THE COURT: This is a very hard question to answer,
14 but you really do need to think about it very carefully. If
15 you feel that, you know, there was neighborhood talk about it
16 or whatever -- I mean, if you think that could affect you, then
17 you need to tell us that, Ms. Barrette.

18 JUROR BARRETTE: Given that I was familiar with this
19 man prior to this taking place, I think there is a chance that
20 might be the case.

21 THE COURT: All right. Thank you, Ms. Barrette.

22 Anybody else on the left side? Yes, ma'am, in the
23 second row. Your name, please.

24 JUROR CHOI: Kyou-Bin Choi. Last name Choi, C-h-o-i.

25 THE COURT: All right. You will just have to speak

1 as loud as you can because we have to hear you, Ms. Choi. Yes,
2 ma'am.

3 JUROR CHOI: I just heard the news about it, that's
4 why the name is familiar.

5 THE COURT: Is there anything about what you heard in
6 the news article that you think could affect your ability to
7 judge this case fairly?

8 JUROR CHOI: Probably not. I didn't think much about
9 it.

10 THE COURT: You didn't think much about it? All
11 right. Thank you, Ms. Choi.

12 There were other hands over here on the left. Near
13 the wall -- yes, whoever's hand is near the wall. Yes, sir.

14 JUROR DAVIS: Yes, Ken Davis, juror 17. Just vaguely
15 familiar with the case.

16 THE COURT: I'm sorry, you're Mr. Davis?

17 JUROR DAVIS: Yes. I am just vaguely familiar with
18 the case from the newspaper. Not so much with the details. So
19 I don't think there is anything that would impair or influence
20 my judgment on the case.

21 THE COURT: You haven't made up your mind about any
22 issue?

23 JUROR DAVIS: No, ma'am.

24 THE COURT: All right. Thank you, Mr. Davis.

25 There are some more folks back there. Yes, your

1 name, sir. Next to Mr. Davis. Yeah.

2 JUROR EVANS: Betty Evans. I read it in the
3 Washington Post, but there was nothing in it that I think would
4 really influence my judgment.

5 THE COURT: Was it the Sunday Post?

6 JUROR EVANS: Probably.

7 THE COURT: All right. But again, nothing in the
8 article particularly struck you such that you think you've made
9 up your mind about anything?

10 JUROR EVANS: No, because I thought trial had already
11 started --

12 THE COURT: I'm sorry, you thought the trial had
13 already started?

14 JUROR EVANS: The trial had already started, so I
15 didn't think much about it.

16 THE COURT: All right. Thank you, Ms. Evans.

17 There are some more folks. Way in the back, yes,
18 sir, your name. At the very back.

19 JUROR GHOSE: Devajyoti Ghose. I have heard of the
20 case in general terms, not this last piece, but earlier, I
21 believe. At this time it's hard to say whether it could have
22 affected my judgment or not.

23 THE COURT: Well, do you think it's possible that it
24 may have affected your judgment, that you might have pre-
25 decided any issues?

1 JUROR GHOSE: Not pre-decided, no.

2 THE COURT: Or have any feelings or beliefs about the
3 case?

4 JUROR GHOSE: I generally do like to read about
5 things related to ISIL and so forth, but not relating to this
6 specific case.

7 THE COURT: All right. Thank you, Mr. Ghose.

8 There were some other folks. Yes, sir, your name.

9 I'm sorry, I have to point to you. Yes, ma'am.

10 JUROR FONTENETTE: Shawn Fontenette, juror number 24.

11 THE COURT: Yes, ma'am.

12 JUROR FONTENETTE: I recently read about it in the
13 Washington Post, as well as heard about it on the news this
14 morning. And I believe I read an article online from the
15 Washington Post.

16 THE COURT: So you have had a fair amount of exposure
17 then, Ms. Fontenette?

18 JUROR FONTENETTE: Yes.

19 THE COURT: From what you've read or heard, do you
20 feel it would be difficult for you to be impartial as a juror
21 in this case?

22 JUROR FONTENETTE: Yes.

23 THE COURT: All right. Thank you, Ms. Fontenette.

24 There is I think one other person. Yes, your name,
25 please.

1 JUROR ELSBURY: William Elsbury.

2 THE COURT: The last name?

3 JUROR ELSBURY: Elsbury, E-l-s-b-u-r-y.

4 THE COURT: Yes, sir.

5 JUROR ELSBURY: If this is the same officer that was
6 earlier, maybe last year or months ago was in the news.

7 THE COURT: Yes.

8 JUROR ELSBURY: Where he was fired from --

9 THE COURT: Well, in any case, you've heard some --

10 JUROR ELSBURY: I have heard, yes. I heard a little
11 bit more recently as well.

12 THE COURT: That is correct. Is there anything that
13 you've heard or seen that you think could affect your ability
14 to judge this case impartially?

15 JUROR ELSBURY: The only thing that really struck me,
16 it seemed like there was something about finding additional
17 weapons at his home or something like that. I don't remember.

18 THE COURT: You think that that would make it
19 difficult for you to be impartial in judging the case?

20 JUROR ELSBURY: Perhaps, yeah.

21 THE COURT: All right. Thank you, Mr. Elsbury.

22 Anybody else on the left side?

23 All right, now in the center, let me start in the
24 first row. On the aisle, yes, sir, your name, please.

25 JUROR McCRAVE: Michael McCrave. Probably when the

1 case --

2 THE COURT: Wait, wait, just slow down one second. I
3 have got to get your name.

4 JUROR McCRAVE: McCrave.

5 THE COURT: Yes, Mr. McCrave.

6 JUROR McCRAVE: Probably when the case came out a
7 year or plus ago, read about it, heard about it. But nothing
8 of it at this moment would influence my judgment.

9 THE COURT: You haven't made your mind up about any
10 of the issues in the case?

11 JUROR McCRAVE: No, ma'am.

12 THE COURT: All right. Thank you, Mr. McCrave.

13 And then there is a lady in the first row. Yes,
14 ma'am, your name, please.

15 JUROR LAYTON: Georgianna Layton.

16 THE COURT: Yes, Ms. Layton.

17 JUROR LAYTON: I'm not sure if this is even the case,
18 but this morning I heard on Channel 7 News, they were talking
19 about a police officer with ISIS, they think connection, and
20 that the jury selection was going on today.

21 THE COURT: That's what this case is.

22 JUROR LAYTON: Yeah. I asked my husband, did you
23 hear the name? And he goes, no. And I said, I wonder if
24 that's me.

25 That's it, that's as far as --

1 THE COURT: Ms. Layton, is there anything about that
2 situation that you feel might make it hard to be an impartial
3 juror?

4 JUROR LAYTON: No, because I didn't even know his
5 name.

6 THE COURT: All right.

7 JUROR LAYTON: I just heard the situation.

8 THE COURT: Thank you. Now, folks, let me just say
9 for a second, we all just laughed, all right. And I always
10 tell this to jurors so that you understand the context in which
11 humor may occur in a trial. This is a very serious criminal
12 case, but even in the most serious things that we do in life,
13 there are times when, as human beings, something funny happens
14 and we all laugh. It doesn't mean it's not a serious
15 enterprise.

16 And I always -- some of you, I am sure, go to the
17 theater. If you have ever seen the play Hamlet, it's the most
18 serious tragedy in the English language, and right in the
19 middle of this deep, dark tragedy there is slapstick humor.
20 And Shakespeare did that to break up the tension.

21 So if from time to time we have a moment like this
22 where, as human beings, we all just laugh, it doesn't mean that
23 this is not a very serious trial. And it doesn't mean that the
24 lawyers, or the judge, or the jury is not taking it seriously.
25 So I want you to understand the context of that. All right?

1 Now, is there anybody else in the first row?

2 Now, in the second row, I see more hands going up.

3 Yes, your name, sir.

4 JUROR RENAUD: My name is John Renaud, juror 67.

5 THE COURT: Yes, sir. Have you --

6 JUROR RENAUD: I heard about this in generalities at
7 the time of the original arrest, but not in any of the
8 particulars.

9 THE COURT: Was there anything about what you have
10 heard in the past that you feel would make it difficult for you
11 to be an impartial juror?

12 JUROR RENAUD: No.

13 THE COURT: Thank you, Mr. Renaud.

14 More people. Yes, your name, sir.

15 JUROR LARSON: Dave Larson.

16 THE COURT: Yes, Mr. Larson.

17 JUROR LARSON: Yeah, I read about it when the
18 gentleman was first arrested or apprehended.

19 THE COURT: And not more recently than that?

20 JUROR LARSON: No.

21 THE COURT: Is there anything about what you did read
22 that you feel might affect your ability to be impartial?

23 JUROR LARSON: No.

24 THE COURT: No? All right. Thank you, Mr. Larson.

25 Yes, sir, you're name, please.

1 JUROR KAUFFMAN: The last name is Kauffman, first
2 name is Thomas.

3 THE COURT: Is it with a C or a K?

4 JUROR KAUFFMAN: With a K.

5 THE COURT: Got you. Yes, sir.

6 JUROR KAUFFMAN: Heard about the case several months
7 ago, not the particulars. Just he was a police officer --

8 THE COURT: And is there anything about what you read
9 that you think could affect your impartiality?

10 JUROR KAUFFMAN: No.

11 THE COURT: All right. Thank you, Mr. Kauffman.

12 Are there more people who think they have been
13 exposed -- yes, sir, on the aisle, your name, please.

14 JUROR PONTICELLO: Philip Ponticello.

15 THE COURT: Can you spell the last name.

16 JUROR PONTICELLO: P, as in Paul,
17 o-n-t-i-n-c-e-l-l-o.

18 THE COURT: I have got you. Number 65, right?

19 JUROR PONTICELLO: Yes, ma'am.

20 THE COURT: Yes, sir.

21 JUROR PONTICELLO: Just saw on Channel 7 this morning
22 about it, and something on Google about it. And I thought that
23 was maybe the trial, but they never said any more than what you
24 have said this morning about it.

25 THE COURT: Is there anything about what you either

1 heard or saw on Google or this morning on the news that you
2 think could affect your impartiality?

3 JUROR PONTICELLO: No.

4 THE COURT: All right, thank you.

5 Anyone else in the center? Yes, your name, please.

6 JUROR OBUCHOWSKI-BERMAN: Susan Obuchowski-Berman.

7 THE COURT: Yes, ma'am.

8 JUROR OBUCHOWSKI-BERMAN: I remember hearing about
9 this case, it was probably within the past year. Nothing very
10 recent.

11 THE COURT: Is there anything about what you did hear
12 though that you feel could affect your impartiality?

13 JUROR OBUCHOWSKI-BERMAN: No.

14 THE COURT: Thank you, ma'am.

15 Anyone else in the center?

16 Now, on the far right, over here, is there anybody?

17 All right, way in the back, yes, sir.

18 JUROR WINER: Jonathan Winer.

19 THE COURT: Yes, sir.

20 JUROR WINER: I saw it on the online Washington Post
21 the last few days. There were details shared in that article
22 that the Court mentioned today that piqued my interest, points
23 of maybe personal introspections, but I guess it depends upon
24 how it is presented whether or not that would influence me.

25 THE COURT: But you did read the online article this

1 past week?

2 JUROR WINER: Yes, I did. I don't know what the date
3 was, but it was the Washington Post online in the last few
4 days.

5 THE COURT: And then, I'm sorry, did you say you then
6 did some research or further --

7 JUROR WINER: No, it was information in that
8 article --

9 THE COURT: All right.

10 JUROR WINER: -- that piqued my interest.

11 THE COURT: All right. Thank you, sir.

12 And in the back, yes, your name, please.

13 JUROR WALDRON: Cory Waldron, juror 87. I am
14 familiar with the case to the point where I looked into it a
15 little bit when the defendant was first arrested, and am
16 familiar with the Government's accusations based on at least
17 that initial time frame.

18 THE COURT: And do you feel that you have sort of
19 made up your mind about any issues? Or do you feel that you
20 would have problems being impartial in judging the case?

21 JUROR WALDRON: I believe I can remain impartial.

22 THE COURT: But you have done some research on it?

23 JUROR WALDRON: Nothing beyond the cursory, like of
24 the arrests.

25 THE COURT: Well, when you said you did some

1 research, I mean, did you go online and follow --

2 JUROR WALDRON: Just like Twitter and Web searches.
3 It was mainly an NBC News story.

4 THE COURT: All right. Thank you, sir.
5 Is there anybody else?

6 All right. The next question, ladies and gentlemen,
7 I'm very aware of the fact that we are running into the holiday
8 season, Hanukkah starts this week and we are getting close to
9 Christmas.

10 There is a fair amount of evidence in this case.
11 There is some complicated issues, and it's going to take
12 several trial days. We're going to work as hard as we can to
13 make this as efficient a trial as possible.

14 But let me give you an approximate idea of the time
15 commitment that this case will involve. We're going to run
16 until approximately 6 o'clock this evening, and then hopefully
17 start tomorrow morning at 9 o'clock and run to approximately 6.

18 We have a one-hour lunch break around 1 o'clock, and
19 I always give jurors a mid-afternoon and a mid-morning break.
20 And sometimes if the trial is a very complicated trial,
21 sometimes we might even have two breaks in the morning and the
22 afternoon. It sort of depends on how things are going.

23 We will certainly be in trial all of this week and
24 most likely through Wednesday of next week, it could even go
25 into Thursday. I cannot imagine it will go past Friday. But

1 we need jurors who can give us their full time and attention.

2 And that means that if you have any pre-purchased
3 flights or travel plans which can't be changed, you have child
4 care commitments, or work commitments, I know some of you are
5 teachers, that cannot be rearranged, we need to know that now.

6 So let me start again on the left side. Is there
7 anybody, given that time commitment and the structure of the
8 day, that you feel you could not sit as a juror for this case?

9 Yes, sir, your name again, please. You are Mr. Diaz?

10 JUROR DIAZ: Yes, ma'am. Sorry. Juror 18.

11 Basically, I'm still in a 16-week supervisory course for my
12 work, and I have classes on the 13th and the 20th.

13 THE COURT: And you can't miss the classes?

14 JUROR DIAZ: No, no, especially the last two weeks.
15 And on the 21st it's going to be my son's graduation from
16 George Mason.

17 THE COURT: All right. Thank you, Mr. Diaz.

18 Yes, sir, your name, please.

19 JUROR ASIAMA: Kwami Asiama, number 2.

20 THE COURT: Yes, sir.

21 JUROR ASIAMA: I do have travel plans sometime
22 Thursday this week through next week. That is flexible though,
23 but just to let you know.

24 THE COURT: When do you need to be leaving?

25 JUROR ASIAMA: Thursday this week.

1 THE COURT: I'm sorry?

2 JUROR ASIAMA: Thursday this week.

3 THE COURT: Thursday of this week?

4 JUROR ASIAMA: Yes.

5 THE COURT: But how flexible are those plans?

6 JUROR ASIAMA: Very flexible.

7 THE COURT: Can you postpone that trip for as long as
8 a week or seven or eight days?

9 JUROR ASIAMA: Yes, it can be postponed.

10 THE COURT: All right. Thank you, Mr. Asiama.
11 Yes, your name, please.

12 JUROR CLELLAND: Name is Mark Clelland.

13 THE COURT: Can you spell the last name.

14 JUROR CLELLAND: C-l-e-l-l-a-n-d.

15 THE COURT: Number 14.

16 JUROR CLELLAND: Yes, ma'am. I am currently enrolled
17 in college, and I have finals for some of my classes that I
18 have already paid for later this week.

19 THE COURT: When are your finals? Are they in the
20 evening or during the day?

21 JUROR CLELLAND: The first one is scheduled Thursday
22 at 10 a.m.

23 THE COURT: All right. Thank you, Mr. Clelland.

24 And, I'm sorry, do you have more than one exam
25 scheduled?

1 JUROR CLELLAND: No, just that one Thursday.

2 THE COURT: Is there -- is there a way of having that
3 continued, or is that not possible in your university?

4 JUROR CLELLAND: I haven't inquired. I am not sure
5 about moving that.

6 THE COURT: Is this an online program, or is it like
7 a George Mason or AU?

8 JUROR CLELLAND: It is Northern Virginia Community
9 College. It is an in-person class.

10 THE COURT: And the semester ends December 22?

11 JUROR CLELLAND: No. The last final is this
12 Thursday, like three days from now.

13 THE COURT: That's the last final?

14 JUROR CLELLAND: Correct.

15 THE COURT: Thank you. All right.

16 Yes, ma'am, against the wall. Your name, please.

17 JUROR DAOUST: Andrea Daoust, D-a-o-u-s-t.

18 THE COURT: Yes, ma'am.

19 JUROR DAOUST: I recently -- I am a business owner, a
20 small business owner. I recently changed my business to
21 virtual. And I haven't worked out all the kinks in it yet.

22 And so, therefore, I am responsible for payroll and
23 everything that happens in terms of the mail, anything incoming
24 and outgoing. And I have four employees that I'm responsible
25 for.

1 So could I manage it? Yes, but it would be
2 difficult.

3 THE COURT: All right. Thank you, ma'am.

4 Yes, your name again, please.

5 JUROR BARRETTE: Number 4, Kristin Barrette.

6 THE COURT: Yes, Ms. Barrette.

7 JUROR BARRETTE: May I approach the bench, Your
8 Honor?

9 THE COURT: Actually, I don't think I need to have
10 you do that, but thank you.

11 Okay. Yes, your name, please.

12 JUROR COTTERMAN: Bruce Cotterman.

13 THE COURT: Yes, Mr. Cotterman.

14 JUROR COTTERMAN: Travel plans on December 22, and
15 they cannot be postponed.

16 THE COURT: And are they in the morning or in the
17 afternoon?

18 JUROR COTTERMAN: I think it's 8:30 in the morning.

19 THE COURT: Okay. Again, I'm not sure the case will
20 go that long, but we're trying out of an abundance of caution
21 to see how people's schedules are. Thank you, Mr. Cotterman.

22 Yes, your name, please.

23 JUROR HONG: Brian Hong.

24 THE COURT: Spell the last name.

25 JUROR HONG: H-o-n-g.

1 THE COURT: Yes, Mr. Hong.

2 JUROR HONG: So I am a manager in the hospitality
3 industry, and currently right now our specific location is
4 short staffed, so I am actually held responsible to help assist
5 and the rest of the region.

6 THE COURT: Well, would it be an actual -- is there
7 no one who can take your spot for a week or ten days?

8 JUROR HONG: No, everyone else is on vacation.

9 THE COURT: So it would be a hardship for your
10 company?

11 JUROR HONG: No one would be able to fill the spot.

12 THE COURT: And this is a hospitality business?

13 JUROR HONG: Yes.

14 THE COURT: And this is your busy season?

15 JUROR HONG: Yes.

16 THE COURT: Thank you, Mr. Hong.

17 Anybody else on the left side?

18 How about in the center section, anybody in the first
19 row?

20 Yes, ma'am, your name again, please.

21 JUROR EILER: My name is Ashley Eiler. I'm a
22 teacher. I could get a substitute teacher, but it's very
23 problematic for me because I have to drive back to Woodbridge,
24 and then I have to put all my lesson plans in for the next day.
25 So I am still responsible for my lessons even though I'm here.

1 THE COURT: What grade do you teach?

2 JUROR EILER: Middle school, 6, 7, and 8.

3 THE COURT: So is this the end of the semester for
4 them too?

5 JUROR EILER: Yeah. Well, our quarter ends -- we
6 have to turn in grades on Wednesday.

7 THE COURT: So in order for a substitute to take over
8 for you, how much prep time would you have to put in?

9 JUROR EILER: At least an hour or two a day.

10 THE COURT: Each day?

11 JUROR EILER: Yeah, just to get the lesson plans
12 prepared and write it all down and leave it. And then I'd have
13 do grades and things like that too?

14 THE COURT: And you'd have to do that every single
15 day that you were here as a juror?

16 JUROR EILER: I would probably have to group them
17 together a little bit, but yeah.

18 THE COURT: All right. Thank you, ma'am.

19 Who else in the first row? Yes, your name, please.

20 JUROR GANTENBEIN: Alice Gantenbein. Juror number --
21 I don't know.

22 THE COURT: 27, does that sound right?

23 JUROR GANTENBEIN: That sounds right.

24 THE COURT: Good.

25 JUROR GANTENBEIN: I'm also a teacher, seventh grade

1 life science. I have a field trip with 38 students on Friday.
2 There is no one to take them if I don't go. Not that I am
3 looking forward to going with 38 kids outside.

4 THE COURT: All right.

5 JUROR GANTENBEIN: I also am enrolled in two classes,
6 one of which meets at 4:30 tonight.

7 THE COURT: All right. Thank you, ma'am.

8 Yes, your name, please.

9 JUROR FRISCHKORN: Yes, Susan Frischkorn.

10 THE COURT: Yes, ma'am.

11 JUROR FRISCHKORN: I'm a teacher also. I'm the only
12 K-5 teacher, instructional technology teacher. When I'm out,
13 they don't get a sub. So I would have to cancel all my push-in
14 lessons and teacher meetings.

15 THE COURT: All right. Thank you, ma'am.

16 Anyone else? Yes, ma'am.

17 JUROR GAYTON: Cynthia Gayton. I'm not sure what my
18 juror number is.

19 THE COURT: 28.

20 JUROR GAYTON: I'm a professor, I teach. Final exam
21 is on Friday, it's an oral presentation. And a final paper due
22 on this Thursday. I don't have -- there are no substitutes for
23 my program, it's only me. And since it's an oral presentation,
24 I'm the only one who is going to be able to determine whether
25 they have passed, basically.

1 THE COURT: And again, it's not something that could
2 be pushed off a week or too?

3 JUROR GAYTON: It can't be because all of our exams
4 are scheduled and the rooms are scheduled, not without
5 affecting other professors and other students, and I have nine
6 students that this would affect.

7 THE COURT: All right. Thank you, ma'am.

8 All right. Now in the second row -- third row. Yes,
9 sir, your name, please.

10 JUROR RENAUD: My name is John Renaud, number 67.

11 THE COURT: Yes, sir.

12 JUROR RENAUD: I am scheduled to be out of town
13 starting not this -- next Wednesday. And I have sought and
14 gotten excused for the tail end of next week already. I don't
15 know if that's a factor or not.

16 THE COURT: So has the jury section already excused
17 you?

18 JUROR RENAUD: Yes.

19 THE COURT: All right. Thank you, sir.

20 Anybody else in the -- yes, on the aisle, your name,
21 sir.

22 JUROR PONTICELLO: Phil Ponticello.

23 THE COURT: Yes, sir.

24 JUROR PONTICELLO: I am the primary caregiver for my
25 wife, she has a doctor's appointment on Friday. She is unable

1 to drive herself. The doctor's appointment I can't reschedule,
2 and her doctor is in town only twice a month.

3 THE COURT: Is there family member or friend who
4 could take her?

5 JUROR PONTICELLO: No, ma'am.

6 THE COURT: No? All right, sir, thank you.

7 Anybody else in the back? So everybody in the center
8 section has told me about any time commitment or scheduling
9 problems?

10 Yes, your name, please.

11 JUROR NINTEMAN: I am James Ninteman,
12 N-i-n-t-e-m-a-n.

13 THE COURT: I'm sorry?

14 JUROR NINTEMAN: N-i-n-t-e-m-a-n.

15 THE COURT: I have you, yes, you are 57.

16 JUROR NINTEMAN: I am a regional manager. We have
17 got two organization of parties' effort I am involved with.
18 One, I have got 45 people scheduled to be at our office on
19 Thursday afternoon at 4. And then I am taking all of our
20 foremen out to dinner where we give bonuses out Friday at 5.
21 It's complicated, I really should be there.

22 That's all.

23 THE COURT: All right. Thank you, sir.

24 Anybody else in the center? Yes, your name, please.

25 JUROR PIEDRAHITA: Yes, Hector Piedrahita.

1 THE COURT: Can you spell the last name.

2 JUROR PIEDRAHITA: P-i-e-d-r-a-h-i-t-a.

3 THE COURT: I have it, yes, sir.

4 JUROR PIEDRAHITA: I have -- my wife has a very tough
5 schedule, and I have two boys. So it might be -- I might have
6 to find some alternative babysitting if it requires that much
7 time.

8 THE COURT: What time do you have to pick your
9 children -- are they in school?

10 JUROR PIEDRAHITA: Yeah, they are in school, yes.

11 THE COURT: What time do they normally get picked up?

12 JUROR PIEDRAHITA: One gets picked up about 7:45 and
13 the next one 8:30.

14 THE COURT: That's in the morning, that's the school
15 bus?

16 JUROR PIEDRAHITA: Yes. And then they are back by
17 3:30, 4 o'clock.

18 THE COURT: So right now is it your wife who takes
19 care of them?

20 JUROR PIEDRAHITA: No, my wife, she is a full-time
21 employee as well, and her job is a little bit more demanding
22 than mine, but I have got to be home for the kids.

23 THE COURT: Do you have any regular babysitters or
24 family members --

25 JUROR PIEDRAHITA: I don't. I do have family

1 members, I've just got to check with them first before that
2 somebody is going to be there for the boys.

3 THE COURT: So you don't know at this point?

4 JUROR PIEDRAHITA: No, I do not. I didn't know this
5 much commitment was going to be required.

6 THE COURT: All right. Thank you, sir.

7 Anybody else in the center? In the center section?
8 Yes, your name.

9 JUROR PARKS: Tim Parks, number 61.

10 THE COURT: Yes, Mr. Parks.

11 JUROR PARKS: Sure. I work for a consulting company,
12 and we have a very short staff right now. And it's going to be
13 very tough to replace what I'm doing for the next week or so.
14 We have a very large payroll process on Fridays. They can
15 probably get through it, but no one has been ready or trained
16 for those processes at this point in time.

17 THE COURT: Would the situation require you to take
18 time after jury service to be prepping people?

19 JUROR PARKS: At night.

20 THE COURT: I'm sorry?

21 JUROR PARKS: At night, and in the morning before the
22 jury.

23 THE COURT: All right. Thank you, sir.

24 JUROR PARKS: Thank you.

25 THE COURT: There was another hand up. Yes, way in

1 the back. Wait, let the young lady who is on the aisle -- yes,
2 ma'am, your name.

3 JUROR JHA: I am Sandhya Jha.

4 THE COURT: Can you spell the last name.

5 JUROR JHA: J-h-a.

6 THE COURT: Are you number 41?

7 JUROR JHA: Yes.

8 THE COURT: Yes, ma'am.

9 JUROR JHA: I am a software engineer, and I have a
10 release due, like production, the goal will go to production on
11 this Sunday. So it just requires trouble for me if I have to
12 stay here the whole day.

13 THE COURT: How much work would you have to put in
14 each night?

15 JUROR JHA: A few hours.

16 THE COURT: A few hours. All right. Thank you,
17 ma'am.

18 Now, sir, in the back.

19 JUROR W. YEH: Wen-Kuei Yeh.

20 THE COURT: Hold on one second, we have two Mr. Yehs
21 on our jury list.

22 JUROR W. YEH: First name is W-e-n.

23 THE COURT: You are number 92?

24 JUROR W. YEH: Yes.

25 THE COURT: Yes, sir.

1 JUROR W. YEH: I have three little kids, and my
2 parents are watching them for me, but I don't know what their
3 schedule is for the next two weeks.

4 And plus, I am managing a store. So I don't know, I
5 mean, they won't be -- my two oldest will be out of school next
6 Monday.

7 THE COURT: Starting Monday?

8 JUROR W. YEH: Yes. Yes, it's Loudoun County, so
9 they are out of school early.

10 THE COURT: Wow, that's really early.

11 JUROR W. YEH: So I need to make sure I can work with
12 their schedule and work with my schedule.

13 THE COURT: And you don't have that schedule worked
14 out yet?

15 JUROR W. YEH: I mean, I have my set schedule for the
16 store already, but I am basically working all next week and
17 this week.

18 THE COURT: All right. Thank you, sir. Does that
19 take care of everybody in the center?

20 Now on the far right, over here. Let's see, in the
21 first row. Yes, ma'am, on the aisle, your name, please.

22 JUROR TU: I don't know --

23 THE COURT: I'm sorry, I need your name first.

24 JUROR TU: The last name T-u. I don't know my juror
25 number.

1 THE COURT: I will get it, just one second. You're
2 83.

3 JUROR TU: 83, thank you.

4 THE COURT: Yes, ma'am.

5 JUROR TU: I don't know right now what my schedule
6 is. I come back and I am the one that work closely with
7 product manager, engineer, so I can secure all the funding for
8 the budgets. And I work on the contracts. So they don't know
9 right now I am going to be selected or not. But if they really
10 need me, because they rely on me on all the budgets and finance
11 on the contracts, can I come back and ask the judge like, first
12 of all, can I be let go. I don't know.

13 THE COURT: Well, once we start the trial, we have to
14 go straight through with it. So there is no flexibility in
15 that respect.

16 JUROR TU: Yeah, that's what I know, because every
17 time someone asks --

18 THE COURT: All right. Thank you, ma'am.

19 JUROR TU: Yes, they need me to work on projects and
20 everything for that.

21 THE COURT: All right, thank you.

22 Anybody else in that row?

23 Now, in the second row, I see a hand. Yes, your
24 name, please. I can't see you. Just stand up. Yeah, your
25 name.

1 JUROR SUNKARA: Venkatram Sunkara.

2 THE COURT: You will have to spell the last name for
3 me.

4 JUROR SUNKARA: Sunkara, S-u--

5 THE COURT: Wait, wait.

6 JUROR SUNKARA: S-u-n-k-a-r-a. 78, I guess.

7 THE COURT: Yes, sir.

8 JUROR SUNKARA: Yes. I have my son's special needs
9 assessment tomorrow. And on the 13th I have the hearing
10 meeting. And because I live in Loudoun County, that means
11 December 15 the schools are closed for the rest of the year.

12 THE COURT: All right. So he needs his annual IEP
13 done right now?

14 JUROR SUNKARA: His eligibility hearing is on the
15 13th. And tomorrow we have to receive the assessment and
16 acknowledge the assessment so we can actually attend the
17 meeting on the 13th.

18 THE COURT: All right. Thank you, Mr. Sunkara.

19 On the aisle, yes, ma'am, your name, please. Yes.

20 JUROR STEWART: Mary Stewart. I just have a one-hour
21 problem, I am a professor at Georgetown in the evenings, and I
22 am giving an oral examine on Tuesday at 6.

23 THE COURT: That's tomorrow Tuesday?

24 JUROR STEWART: It is.

25 THE COURT: So you would have to leave by 5 o'clock

1 at the latest?

2 JUROR STEWART: Yes.

3 THE COURT: You couldn't push the exam until a little
4 bit later?

5 JUROR STEWART: I will attempt with the university,
6 but there is another section that comes in right after us.

7 THE COURT: How many students do you have?

8 JUROR STEWART: I have five who are presenting
9 tomorrow.

10 THE COURT: Five tomorrow? Okay. Thank you, ma'am.
11 Yes, your name, sir, the second row.

12 JUROR SPIEGEL: Eric Spiegel.

13 THE COURT: Yes, sir.

14 JUROR SPIEGEL: I work in e-commerce, online sales.
15 And these two weeks are probably the busiest two weeks of the
16 entire year for me. I would be happy to do something with a
17 shorter schedule, but I feel like the two weeks would be --

18 THE COURT: Would it be a hardship for you?

19 JUROR SPIEGEL: Yeah. I am the only one in my
20 company that does the job too, so there is no one else that can
21 fill in.

22 THE COURT: All right. Thank you, sir.

23 In the middle, I have to just point to you. I'm
24 sorry. Go ahead, stand up, please. Your name, please.

25 JUROR O'HARE: Regina O'Hare.

1 THE COURT: Yes, ma'am.

2 JUROR O'HARE: I just have a problem with the going
3 until 6 o'clock. I have a second job where I teach fitness
4 classes at night. And it's actually really hard to find
5 someone to sub for those. So I teach at 7 o'clock on Monday
6 and Wednesday.

7 THE COURT: And where -- I don't need the street
8 name, but what town?

9 JUROR O'HARE: It's in McLean. But I'm worried about
10 getting from here to there and set up by that time.

11 THE COURT: And it's Monday and Wednesday nights?

12 JUROR O'HARE: Yes.

13 THE COURT: Other than that, would you be available?

14 JUROR O'HARE: Yes.

15 THE COURT: All right. Thank you, Ms. O'Hare.

16 Yes, next to Ms. O'Hare, yes. Your name, please.

17 JUROR MARKER: Rachael Marker, like what you write
18 with.

19 THE COURT: Wait, hold on one second. I am sorry,
20 Marker?

21 JUROR MARKER: Yes.

22 THE COURT: Yes, Ms. Marker.

23 JUROR MARKER: I am a kindergarten special education
24 teacher. Aside from -- I teach in Loudoun County, so I am off
25 and available all next week. I am just concerned about getting

1 a substitute this week. Nobody tends to pick up my sub jobs
2 because of my position. And lesson planning aside, I can
3 handle all that. I am just a little concerned day to day for
4 the sub.

5 THE COURT: All right. Thank you, Ms. Marker.
6 The gentleman against the wall. Yes.

7 JUROR J. YEH: Yeh, Y-e-h.

8 THE COURT: Yes, Mr. Yeh. I have got you.

9 JUROR J. YEH: So my girlfriend has a scheduled
10 surgery on Friday. I am the driver and a caretaker. I would
11 talk to the doctors if I have to do scheduling. I am not sure
12 if I should do --

13 THE COURT: So you definitely have an appointment
14 with the doctor on Friday?

15 JUROR J. YEH: Yes.

16 THE COURT: And that can't be changed?

17 JUROR J. YEH: Well, I don't know if there is a
18 penalty to change or not. I would have to talk to her. I
19 would to call the doctor's office.

20 THE COURT: But you don't know?

21 JUROR J. YEH: Right.

22 THE COURT: Thank you.

23 Yes, in the back. Your name, please.

24 JUROR SMITH: Scott Smith, juror 75.

25 THE COURT: Yes, sir.

1 JUROR SMITH: I have a couple of things. My boss is
2 out of country and I'm the manager in the office. So we have
3 an interview coming on Wednesday that we can't move because of
4 the competitive environment.

5 THE COURT: It's this coming Wednesday?

6 JUROR SMITH: Yes. We also -- I have a problem with
7 6 o'clock. My autistic son, I am home by 5:15 in order to be
8 able to pick him up from the therapist to bring him home.

9 And then we actually have travel on the 22nd.

10 THE COURT: All right. Thank you, Mr. Smith. That's
11 a trifecta, what you just gave me.

12 Is there anybody else? On the aisle, yes, sir, your
13 name, please.

14 JUROR SMILEK: Jan Smilek, I think number 74.

15 THE COURT: Yes, sir.

16 JUROR SMILEK: I previously informed the Court that I
17 will be traveling on this Wednesday, and Wednesday through
18 Friday, and received a temporary delay.

19 THE COURT: All right. So in other words, this
20 coming Wednesday and three days you're going to be gone?

21 JUROR SMILEK: Yes. I have already communicated with
22 the court that I am going to be out of state.

23 THE COURT: All right. Thank you, sir.

24 Yes, sir, your name.

25 JUROR VARGO: Lane Vargo, with a V like Victor.

1 THE COURT: Yes, Mr. Vargo.

2 JUROR VARGO: I have business travel scheduled for
3 next Monday through Wednesday out of state.

4 THE COURT: Is that at all changeable?

5 JUROR VARGO: No.

6 THE COURT: You can't change that? No? All right,
7 thank you, sir.

8 Yes, your name.

9 JUROR WINER: Jonathan Winer.

10 THE COURT: Yes, Mr. Winer.

11 JUROR WINER: Yeah, I have already communicated to
12 the Court, at the end of next week I will be out of state on
13 personal travel, but it's Friday, we will be gone Friday. So
14 if it goes that long, it doesn't impact me even then, but --

15 THE COURT: All right. Thank you, sir.

16 Now, is there anybody else? Yes, in the back, your
17 name.

18 JUROR WALDRON: Cory Waldron, juror 87.

19 THE COURT: Yes, sir.

20 JUROR WALDRON: Similar situation to Mr. Winer, I'm
21 out next Friday for personal travel.

22 THE COURT: All right, thank you.

23 Now, is there anybody else for whom that trial
24 schedule is a problem? Yes, ma'am, your name, please.

25 JUROR ISLAM: Jawaher Islam, I-s-l-a-m. I don't know

1 my juror number.

2 THE COURT: Your number is 40.

3 JUROR ISLAM: 40, okay. So I have to take care of my
4 family member, he is special needs also. So my husband, he
5 can, but I think he is also busy season, he cannot take care
6 him some of the times that he is working.

7 So I don't know if I would be able to --

8 THE COURT: Are there other family members or close
9 friends who have sometimes helped you take care of that child?

10 JUROR ISLAM: I can look.

11 THE COURT: Well, the trouble is we need to know.

12 JUROR ISLAM: I don't know.

13 THE COURT: You don't know. All right. Thank you,
14 ma'am.

15 I see another hand in the back. Yes, ma'am.

16 JUROR EISENBERG: Monica Eisenberg.

17 THE COURT: What's your last name?

18 JUROR EISENBERG: Eisenberg.

19 THE COURT: Yes, Ms. Eisenberg.

20 JUROR EISENBERG: I'm sick.

21 THE COURT: You're sick?

22 JUROR EISENBERG: Yes, I am sick. And I don't know
23 if what I have is going to get worse the rest of the week. I
24 would like to know if it's okay to call at the last minute if I
25 can't make it. I don't know --

1 THE COURT: I recognize that you actually made an
2 effort to come in here today, so I appreciate that. Have a
3 seat, I think we can take care of the situation.

4 Is there anybody else? Do I see any other hands up?
5 No.

6 All right, counsel, approach the bench.

7 NOTE: A side-bar discussion is had between the Court
8 and counsel out of the hearing of the jury panel as follows:

9 AT SIDE BAR

10 THE COURT: Now, first of all, does Mr. Young want to
11 be present at bench conferences? He has a right to be here if
12 you want him. If you don't want him, that's fine, but it's one
13 way other the other. So you decide.

14 MS. MORENO: And if he is up here, Your Honor, will
15 the Marshals also --

16 THE COURT: They always follow him up.

17 MS. MORENO: Can we just notify him of that? Can we
18 take five seconds?

19 Can you do that for me?

20 I would rather him not come up.

21 THE COURT: I understand why. By I just have to give
22 you that option.

23 MS. MORENO: Thank you, Your Honor.

24 THE COURT: Not that many people read the Washington
25 Post.

1 MR. GIBBS: That's surprising.

2 THE COURT: I thought we would have a lot more,
3 that's interesting.

4 MS. MORENO: If we were in New York, it would be a
5 different story, and if it was in the New York Times.

6 THE COURT: Your client is waiving his appearance at
7 the bench conferences.

8 MR. SMITH: Not all of them, just the ones --

9 THE COURT: No, no, it can't be -- it's all or none,
10 we can't have it back and forth.

11 MR. SMITH: Okay. Can I tell him?

12 THE COURT: Yes. He is coming up. So he will be at
13 all bench conferences. All right.

14 MS. MORENO: Okay.

15 MR. SMITH: We changed our minds.

16 THE COURT: All right. Consistent, that's the point.

17 MR. SMITH: Yes.

18 THE COURT: Now, I plan to excuse, as I indicated to
19 you earlier, on the basis of these first two questions, I am
20 going to excuse any juror who I have concerns about for
21 pretrial publicity taint or they're not available for our
22 schedule. So listen carefully as I excuse these. Okay?

23 THE CLERK: Judge, I have one more.

24 THE COURT: Who is that?

25 THE CLERK: Juror number 41.

1 THE COURT: Don't worry about her. I have already
2 got that.

3 Number 4, Barrette. She is the one who knows the
4 defendant. Number 14. 15. 16. 18. 19. 20. 21. 24. 25.
5 27. 28. 37. 40. 41. 49.

6 MR. SMITH: Did Your Honor say 49?

7 THE COURT: 49. That's the special ed. teacher. 57.
8 58. 61. 64. 65. 67. 74.

9 MR. SMITH: Did Your Honor say 67?

10 THE COURT: 67.

11 MR. SMITH: And that was because of the
12 unavailability next Wednesday?

13 THE COURT: Yes. 74. 75. 76. 77. 78. 83. 86.
14 87. 89. 92. 93.

15 Now, is there any objection to those jurors being
16 stricken for cause based upon either some pretrial publicity
17 exposure or unable to meet this time schedule that we have set
18 for this trial?

19 MS. MORENO: No objection from the defense, Your
20 Honor.

21 THE COURT: No objection from the defense.

22 MR. GIBBS: Nor from the government, Judge.

23 THE COURT: Then I'm going to excuse those jurors
24 now. I will read their names and numbers out. That will be a
25 much smaller group with which we can work. All right?

1 MS. MORENO: Yes, I appreciate that. Thank you, Your
2 Honor.

3 NOTE: The side-bar discussion is concluded;
4 whereupon the case continues before the jury panel as follows:
5 BEFORE THE JURY PANEL

6 THE COURT: The following jurors are going to be
7 excused. Please leave quietly so the rest of the jurors can
8 hear as their names are being called.

9 Number 4, Ms. Barrette. Number 14, Mr. Clelland.
10 Number 15, Mr. Cotterman. 16, Andrea Daoust. 18, Ariel Diaz.
11 19, Ashley Eiler. 20, Monica Eisenberg. 21, William Elsbury.
12 24, Shawn Fontenette. 25, Susan Frischkorn. 27, Alice
13 Gantenbein. 28, Cynthia Gayton. 37, Brian Hong. 40, Jawaher
14 Islam. 41, Sandhya Jha. 49, Rachael Marker. 57, James
15 Ninteman. 58, Regina O'Hare. 61, Timothy Parks. 64, Hector
16 Piedrahita. 65, Philip Ponticello. 67, John Renaud. 74, Jan
17 Smilek. 75, Scott Smith. 76, Eric Spiegel. 77, Mary Stewart.
18 78, Mr. Sunkara. 83, Ms. Tu. 86, Lane Vargo. 87, Cory
19 Waldron. 89, Jonathan Winer. 92, Wen-Kuei Yeh. 93, John Yeh.

20 NOTE: The above-named jurors are excused and leave
21 the courtroom.

22 JUROR KWAK: Your Honor --

23 THE COURT: Yes, sir.

24 JUROR KWAK: I'm sorry, my number is 44, Kwak, with a
25 K.

1 THE COURT: Yes, Mr. Kwak.

2 JUROR KWAK: Yes. So you didn't excuse the other
3 reasons, my family. I have some communication problem.

4 THE COURT: Are you having trouble understanding
5 English?

6 JUROR KWAK: Yes, please. I already made request,
7 but they denied, the request was denied. But I think my
8 English is not enough for jury service. So how can I judge the
9 other people?

10 THE COURT: All right. We will get to you in a
11 minute. All right, thank you. Have a seat, please.

12 All right, ladies and gentlemen, I am going to have
13 other questions for you now, so please listen to these
14 questions carefully.

15 Remember the background for these questions. That
16 is, we need to have 14 people. We now know that you have the
17 time to give us, but it's also very important, given some of
18 the issues in this case, that you also listen carefully to my
19 questions and provide answers if you possibly can.

20 I want, first of all, for the prosecution team to
21 once again reintroduce themselves to the jury. Also, identify
22 the agencies with which you are working.

23 Mr. Kromberg.

24 MR. KROMBERG: I am Gordon Kromberg, I am an
25 Assistant United States Attorney here in the Eastern District

1 of Virginia, Alexandria Division.

2 MR. GIBBS: John Gibbs. I am also an Assistant U.S.
3 Attorney here in the Alexandria Division of the U.S. Attorney's
4 Office.

5 MR. TURGEON: I am Evan Turgeon, I'm a Special
6 Assistant U.S. attorney here in the Alexandria Division of the
7 U.S. Attorney's Office.

8 MR. CASLEN: Nicholas Caslen, I work for the Federal
9 Bureau of Investigation, special agent.

10 MR. VERA: My name is Fabian Vera, I am a paralegal
11 with the U.S. Attorney's Office.

12 THE COURT: Now, ladies and gentlemen, do any of you
13 think you might know in any personal or business capacity any
14 of the federal prosecutors, the case agent, or the paralegal?
15 Is there anybody? All right.

16 Then, Mr. Smith, you can introduce your team.

17 MR. SMITH: I am Nicholas Smith. I am representing
18 the defendant, Nicholas Young.

19 THE COURT: Mr. Smith, I am sorry, identify your law
20 firm and where it's located.

21 MR. SMITH: The law firm I work for is called David
22 B. Smith, PLLC, and I am a partner with that law firm.

23 THE COURT: And it's located in Alexandria. All
24 right.

25 MS. MORENO: Hello, my name is Linda Moreno, I am out

1 of New York. And I am also defense counsel for Nicholas Young.

2 We also have Nicholas Enns, the fourth Nicholas.

3 MR. ENNS: Yes, ma'am. And I am a paralegal
4 contracted out to work for this case.

5 THE COURT: All right. Ladies and gentlemen, any of
6 you think you might know either of the defense counsel, the
7 paralegal, or the defendant, Mr. Young? Is there anybody?

8 Ever had any business or personal relationships with
9 any of these folks?

10 To your knowledge, have any of you ever used the
11 services of the law firms involved here or been involved in
12 litigation with any of these firms?

13 All right, you may have a seat. Thank you.

14 Now I'm going to ask each side to list the names of
15 any witnesses who you believe you may be calling during the
16 course of the trial. We would like to know if any of the
17 jurors might recognize any of these witnesses.

18 Mr. Gibbs.

19 MR. GIBBS: Thank you, Judge. The Government intends
20 to call the following witness, we are going to call him an
21 Undercover Employee, who is going to testify under the name
22 Khalil Sullivan. John Gervino with ICE. John Minichello with
23 the FBI.

24 There will be a confidential human source testifying
25 under the name Mo. Cameron Siegfried, who was a Task Force

1 agent with the FBI previously. There will be an agent
2 testifying on behalf of the FBI as Special Agent Smith. There
3 will be another FBI agent by the name of John Sikorski. Paul
4 Lee is a forensic examiner with the FBI. Ian Campbell is with
5 the Arlington County Police. Kenneth Jamie McNulty is with the
6 Fairfax County Police.

7 We have a witness by the name of Brian Menzies, that
8 is spelled M-e-n-z-i-e-s. There is going to be a witness by
9 the name of Daveed Gartenstein-Ross. Special Agent Caslen, who
10 you just heard from, will testify. And a witness by the name
11 of Joanne Dill who previously worked for WMATA.

12 And then it is possible, although we're not certain,
13 but there is another FBI employee by the name of Jamaal King.
14 And a second FBI employee by the name Mirian, M-i-r-i-a-n,
15 Fontanez.

16 THE COURT: Ladies and gentlemen, do any of you think
17 you might recognize any of those names as people you might know
18 or have worked with?

19 Oh, I am surprised. All right, very good.

20 Yes, ma'am, your name, please.

21 JUROR BROOKS: Kira Brooks.

22 THE COURT: Ms. Brooks, which name did you recognize?

23 JUROR BROOKS: I don't recognize specific names, but
24 my company does a lot of work with Homeland Security and we
25 work with the FBI. But I don't have any conflict with any of

1 people named here this morning.

2 THE COURT: Ms. Brooks, what kind of work do you do?

3 JUROR BROOKS: I own a management consulting company.

4 We do a lot of work with the Department of Homeland Security.

5 THE COURT: If you can talk about it, what kind of
6 work does your --

7 JUROR BROOKS: The particular contract is classified.

8 THE COURT: Do you work on that contract yourself?

9 JUROR BROOKS: I do consult to that client, yes.

10 THE COURT: Well, given the nature of the issues in
11 this case -- as we said, it is an attempted support, material
12 support of ISIS, and obstruction of justice. And given your
13 kind of work, do you feel you might have difficulty being an
14 impartial juror in this case?

15 JUROR BROOKS: Yes.

16 THE COURT: All right. Thank you, Ms. Brooks.

17 All right. Anybody else on the left side who thinks
18 you might recognize the names of any of these witnesses?

19 Now, in the center I saw some hands up. Yes, your
20 name, sir.

21 JUROR EVANCHO: Evancho, George.

22 THE COURT: Yes, sir.

23 JUROR EVANCHO: I am a retired federal employee. My
24 last agency was Immigration and Customs Enforcement where I
25 served as the special security officer. And John Gervino's

1 name is familiar to me. I am not sure if I have met him, but I
2 am sure I have had some kind of dealings with him, I just can't
3 exactly pinpoint what those are.

4 THE COURT: Do you feel that your prior work or the
5 nature of the issues in this case could make it difficult for
6 you to be impartial in judging this case?

7 JUROR EVANCHO: No, Your Honor.

8 THE COURT: All right. And the relationship you had
9 with this person -- I mean, had you actually worked with this
10 person?

11 JUROR EVANCHO: Not directly, Your Honor. I was a
12 special security officer, I managed our SCIF. And occasionally
13 we would have criminal investigators from the various agencies
14 come in, and I would assist them in doing whatever they needed
15 to do inside the SCIF. No professional dealings otherwise, or
16 social for that matter.

17 THE COURT: All right. So that you recognize the
18 name, but you --

19 JUROR EVANCHO: Yes.

20 THE COURT: But did you ever have any face-to-face
21 contact with this person?

22 JUROR EVANCHO: Your Honor, I honestly don't
23 remember. That name is just very familiar to me.

24 THE COURT: Because you've worked in that kind of an
25 agency, do you think you might tend to believe the testimony of

1 federal law enforcement people over that of an ordinary
2 civilian?

3 JUROR EVANCHO: I'm sorry, Your Honor?

4 THE COURT: Yes. Because of your prior work, and
5 your work in a SCIF, and your work with intelligence matters,
6 do you feel that you might have more confidence in the
7 testimony of a federal agent, federal investigator than that of
8 a civilian?

9 JUROR EVANCHO: No, Your Honor.

10 THE COURT: All right. Thank you, Mr. Evancho.

11 JUROR EVANCHO: Yes, ma'am.

12 THE COURT: Anybody else? Yes, ma'am, in the back.

13 JUROR McKENZIE: Yes, Patricia McKenzie.

14 THE COURT: Yes, ma'am.

15 JUROR McKENZIE: I didn't quite hear the first name
16 that you called, but I think you said Sullivan.

17 MR. GIBBS: Well, actually he will be testifying
18 under a pseudonym. So for purposes of his testimony, his name
19 that he will be using in court will be Khalil Sullivan. That
20 is not his real name though.

21 JUROR McKENZIE: Okay. I just wanted to be sure
22 because my former boss' name is Cleovis Sullivan who works at
23 the Virginia Department of Transportation. I just wanted you
24 to know.

25 MR. GIBBS: It's not the same person.

1 THE COURT: It's not the same person. Thank you,
2 ma'am. That is very careful listening, we appreciate that.

3 Is there anybody else in the center section?

4 How about on the right side, anybody who recognized
5 any of those names?

6 All right, I will ask Mr. Smith or Ms. Moreno, do you
7 have any witness names you want to run by the jury?

8 MS. MORENO: Not at this time, Your Honor, no.

9 THE COURT: All right. Thank you.

10 Now, it's very important the jurors understand that
11 the credibility of each witness who testifies in a trial has to
12 be evaluated on its own merits. And, therefore, I want to ask
13 the rest of the panel, do any of you hold the belief that
14 because a person is employed in law enforcement his or her
15 testimony is worthy of more or less belief than that of a
16 non-law enforcement witness?

17 Does anybody have that feeling or belief? All right.

18 Some of the Government's witnesses' identities must
19 not be publicly disclosed. And before these witnesses testify,
20 we are going to actually have a screen be pulled across the
21 courtroom to prevent the public from seeing these witnesses.
22 Of course, you, that is whoever is going to be in the jury, and
23 all of the trial participants will not have your views
24 obstructed.

25 Do any of you think that the use of the screen or the

1 fact that certain witnesses' identities cannot be disclosed
2 could affect your ability to judge this case impartially?

3 Do any of you feel that could be a problem for you?
4 No? All right.

5 And do you feel you would have any difficulty in
6 evaluating that witness' testimony differently than that of an
7 ordinary civilian witness? Is there anybody?

8 I want to know now whether any of you have any past
9 or present experience working in law enforcement? And so,
10 specifically, although this is not limited to these agencies, I
11 want to know whether any of you have ever in the past or are in
12 the present employed by or doing business with the Department
13 of Justice?

14 Now, the Department of Justice is a large federal
15 agency. It includes the Federal Bureau of Investigation, the
16 Drug Enforcement Administration, and up until about I guess now
17 ten years or so ago the Immigration and Naturalization Service.

18 But this would include also, expand this question to
19 the Central Intelligence Agency, the Department of Homeland
20 Security, which now includes the Immigration and Customs
21 Enforcement, or ICE agency, the Fairfax County Police
22 Department, the Arlington County Police Department, and the
23 Washington Metropolitan Transit Authority.

24 So do any of you have any current or past employment
25 or business dealings with any of those agencies or any other

1 law enforcement experience?

2 Let me start on the left side first. Yes, ma'am,
3 your name, please.

4 JUROR BROOKS: I'm Kira Brooks.

5 THE COURT: I'm sorry?

6 JUROR BROOKS: Kira Brooks.

7 THE COURT: Yes, Ms. Brooks.

8 JUROR BROOKS: Just what I said before, I have worked
9 with --

10 THE COURT: That's fine. Thank you, Ms. Brooks.
11 Yes, against the wall, your name, sir.

12 JUROR BATT: Yes, Stephan Batt.

13 THE COURT: Yes, Mr. Batt, number 5.

14 JUROR BATT: I worked at Homeland Security for about
15 seven years. And I worked at Coast Guard headquarters, DHS
16 headquarters, and TSA headquarters.

17 THE COURT: And you are currently at Homeland
18 Security?

19 JUROR BATT: No, I left about a year-and-a-half ago.

20 THE COURT: Are you now in civilian employment?

21 JUROR BATT: No, I work at the U.S. PTO.

22 THE COURT: All right. Now, is there anything about
23 your past experience in the law enforcement agencies, including
24 the Coast Guard, that you feel could affect your impartiality
25 in this case?

1 JUROR BATT: No, ma'am.

2 THE COURT: In any respect, I am going to repeat the
3 question, do you think you might believe the testimony of a
4 Homeland Security agent more or less than that of a civilian
5 based upon your experience with the agency?

6 JUROR BATT: No, ma'am.

7 THE COURT: All right. Thank you, Mr. Batt.
8 Yes, your name, sir.

9 JUROR CARPER: Timothy Carper, number 10.

10 THE COURT: I'm sorry, I can't hear you.

11 JUROR CARPER: Timothy Carper, I'm number 10.

12 THE COURT: Yes, Mr. Carper.

13 JUROR CARPER: I am currently employed by the Drug
14 Enforcement Administration.

15 THE COURT: In what capacity?

16 JUROR CARPER: I am an IT staff, technical.

17 THE COURT: So you do IT work?

18 JUROR CARPER: Yes.

19 THE COURT: Have you ever done any actual law
20 enforcement out-in-the-field kind of work?

21 JUROR CARPER: No.

22 THE COURT: No? How long have you been with DEA?

23 JUROR CARPER: Two-and-a-half years.

24 THE COURT: And any other law enforcement agency
25 experience other than DEA?

1 JUROR CARPER: No.

2 THE COURT: So when you say IT, are you doing -- is
3 it personnel IT, or what kind of IT do you do?

4 JUROR CARPER: IT security. So intrusion detection,
5 vulnerability, I just protect the infrastructure.

6 THE COURT: Is there anything about your work with
7 the DEA that you think could affect your ability to be
8 impartial in judging in this case?

9 JUROR CARPER: No.

10 THE COURT: This is not a DEA case, they are just
11 part of the Justice Department. Have you had contact with
12 agents while you have been at --

13 JUROR CARPER: No agents.

14 THE COURT: Not at all?

15 JUROR CARPER: No, I am not in that capacity.

16 THE COURT: Thank you, Mr. Carper.

17 Yes, your name, sir.

18 JUROR DAVIS: Yes, Kenneth Davis, juror 17.

19 THE COURT: Yes, Mr. Davis.

20 JUROR DAVIS: I work with a consulting firm that has
21 several clients, such as Homeland Security and intelligence
22 agencies. And we are also on a contract vehicle with WMATA,
23 but I am not personally involved in any of those client
24 relationships.

25 THE COURT: And can you tell us what kind of work you

1 do for your employer?

2 JUROR DAVIS: Federal financial management
3 consultant.

4 THE COURT: All right. So your company does work
5 with these agencies, but you yourself don't?

6 JUROR DAVIS: That's correct. I am in executive
7 level leadership with the firm, but I don't serve directly
8 those clients currently.

9 THE COURT: Is there anything about the issues in
10 this case and the kind of work that you do that you feel could
11 make it difficult for you to be impartial as a juror?

12 JUROR DAVIS: No, Your Honor.

13 THE COURT: All right. Thank you, Mr. Davis.

14 Anybody else? Yes, way in the back, your name, sir.

15 JUROR GOIDICH: Thomas Goidich, G-o-i.

16 THE COURT: Can you spell the last name again.

17 JUROR GOIDICH: G-o-i --

18 THE COURT: G-o-i. Mr. Goidich, yes, sir.

19 JUROR GOIDICH: I work for a CPA firm, and we have
20 work at DEA and U.S. Marshals on different contracts.

21 THE COURT: Were any of those contracts involved with
22 specific law enforcement projects?

23 JUROR GOIDICH: No.

24 THE COURT: Is there anything about your work at
25 those agencies that you feel could make it difficult for you to

1 be impartial in judging this case?

2 JUROR GOIDICH: No, ma'am.

3 THE COURT: Thank you, sir.

4 Anybody else on the left side?

5 Now in the center? Yes, your name, again, sir.

6 JUROR MCCRAVE: Michael McCrave. Retired Naval
7 officer. Two years as a legal officer. Also worked with the
8 DEA and NSA on other missions as part of being in the Navy.

9 THE COURT: Given that -- now, how many years ago was
10 that?

11 JUROR MCCRAVE: That was 20 years ago as far as
12 active duty. I am still currently employed working for the
13 Navy building ships currently.

14 THE COURT: Is there anything about your past work in
15 law enforcement or intelligence work that you feel could affect
16 your impartiality to judge this case?

17 JUROR MCCRAVE: No, ma'am.

18 THE COURT: Do you feel in any respect you might
19 believe the testimony of Government agents over that of
20 ordinary civilians because of your work in that area?

21 JUROR MCCRAVE: No, ma'am.

22 THE COURT: All right. Thank you, Mr. McCrave.
23 Yes, your name, sir.

24 JUROR EVANCHO: Evancho, George.

25 THE COURT: Yes, sir.

1 JUROR EVANCHO: Previous work at the FBI in a
2 clerical capacity, 1976, 1977. And Immigration and
3 Naturalization Service, also non-law enforcement position. I
4 was a security specialist, personnel security specialist. And
5 then Immigration and Customs Enforcement under DHS where I was
6 a security specialist, special security officer.

7 THE COURT: Is there anything about all those jobs
8 that you feel might make it difficult for you to be impartial
9 in judging this case?

10 JUROR EVANCHO: No, Your Honor.

11 THE COURT: And again, do you feel in any respect you
12 would tend to believe the testimony of a federal law
13 enforcement officer, or a state law enforcement officer for
14 that matter, over that of a civilian?

15 JUROR EVANCHO: No, Your Honor.

16 THE COURT: All right. Thank you, Mr. Evancho.
17 Anyone else in the first row?

18 Second row then. Yes, sir, your name, please.

19 JUROR KAUFFMAN: Last name is Kauffman, with a K,
20 Thomas.

21 THE COURT: Yes, sir.

22 JUROR KAUFFMAN: Between January of 1996 and December
23 of 2007 I served on the Fairfax County Board of Supervisors,
24 and in that capacity I represented Virginia on the Metro Board.

25 THE COURT: Do you feel in any respect that that

1 relationship with that agency could affect your ability to be
2 impartial in judging this case?

3 JUROR KAUFFMAN: No. It has been a decade.

4 THE COURT: All right. Thank you, sir.

5 Anybody else in that row? Yes, your name, please,
6 ma'am.

7 JUROR OBUCHOWSKI-BERMAN: Susan Obuchowski-Berman. I
8 have worked with the U.S. Department of Justice and the U.S.
9 Department of Homeland Security, and I am currently a federal
10 employee with the Department of State.

11 THE COURT: And what are you doing at State right
12 now?

13 JUROR OBUCHOWSKI-BERMAN: I'm an investigative
14 analyst with our counterintelligence division.

15 THE COURT: All right. Now, given the nature of the
16 issues in this case and your work, do you feel you would have
17 difficulty being impartial in judging this case?

18 JUROR OBUCHOWSKI-BERMAN: I think it is likely.

19 THE COURT: All right. Thank you, ma'am.

20 Yes, sir, your name, please.

21 JUROR OLIVER: Yes, ma'am, I am retired military --

22 THE COURT: I'm sorry, I need your name first.

23 JUROR OLIVER: I'm retired military, and I also --

24 THE COURT: I need you're name.

25 JUROR OLIVER: Oh, Oliver. Juror number 60.

1 THE COURT: Yes, Mr. Oliver.

2 JUROR OLIVER: Yes. I am retired military, and I
3 currently work at the National Reconnaissance Office, armed
4 security. And I work with a lot of the Homeland Security and
5 also Fairfax County.

6 THE COURT: All right. Are you actually involved in
7 active investigations?

8 JUROR OLIVER: Yes, ma'am. I get full notices just
9 like police officers do.

10 THE COURT: Mr. Oliver, based upon that, do you feel
11 you might have difficulty in being impartial in judging this
12 case?

13 JUROR OLIVER: No, ma'am.

14 THE COURT: Given the nature of the issues in this
15 case, you don't think you might have some issues?

16 JUROR OLIVER: I'll be okay. I wouldn't have any.

17 THE COURT: No preset ideas about the issues in this
18 case?

19 JUROR OLIVER: No, ma'am.

20 THE COURT: And you don't think you would favor the
21 testimony of a law enforcement officer against that of an
22 ordinary civilian?

23 JUROR OLIVER: Oh, I would probably be a little
24 impartial in that part.

25 THE COURT: I'm sorry?

1 JUROR OLIVER: I would probably favor a police
2 officers with that one.

3 THE COURT: All right. Thank you, sir.
4 All right, anybody else? Yes, way in the back.

5 JUROR YIANILOS: Christopher Yianilos.

6 THE COURT: Can you spell the last name.

7 JUROR YIANILOS: Y-i-a-n-i-l-o-s.

8 THE COURT: Yes, sir.

9 JUROR YIANILOS: From 1999 until 2009 I worked with
10 the United States Senate and advised on many of the issues and
11 agencies that you mentioned, including WMATA. I am a lawyer,
12 but not practicing, but I assisted a family friend with a case
13 of deportation that went before Immigration.

14 THE COURT: All right. Do you feel that any of those
15 experiences might make it difficult for you to be impartial in
16 judging this case?

17 JUROR YIANILOS: No, Your Honor.

18 THE COURT: In any respect, do you feel you might
19 believe the testimony of a federal law enforcement officer or
20 agent over that of an ordinary civilian?

21 JUROR YIANILOS: No, Your Honor.

22 THE COURT: All right. Thank you, sir.

23 Anybody else in the center section?

24 How about on the far right then? Yes, sir, your
25 name, please.

1 JUROR PHILLIPS: Yes, Your Honor, Carter Phillips.

2 THE COURT: Yes, Mr. Phillips.

3 JUROR PHILLIPS: I was an assistant to the Solicitor
4 General from 1981 to 1984.

5 THE COURT: All right. Did you ever handle cases
6 involving these types of issues?

7 JUROR PHILLIPS: I handled a wide range of criminal
8 cases while I was in the Justice Department.

9 THE COURT: Mr. Phillips, do you feel in any respect
10 your past work in that area might make it difficult for you to
11 be impartial in judging this case?

12 JUROR PHILLIPS: I don't think so, Your Honor, no.

13 THE COURT: In any respect do you feel you might have
14 a pro prosecution bias, it's bad word, but I have to say it,
15 because of your past work?

16 JUROR PHILLIPS: Too many years have passed, and I
17 have been on both sides of the aisle.

18 THE COURT: And you are currently an attorney,
19 correct?

20 JUROR PHILLIPS: I am currently an attorney.

21 THE COURT: Have you done any criminal defense work?

22 JUROR PHILLIPS: I have done a substantial amount of
23 criminal defense work.

24 THE COURT: White collar?

25 JUROR PHILLIPS: Yes, ma'am.

1 THE COURT: All right. Thank you, Mr. Phillips.
2 Anybody else? Way in the back, yes, your name,
3 please.

4 JUROR WOLF: My name is Garrett Wolf.
5 Approximately --

6 THE COURT: Wait, wait, wait one second. We have got
7 to find you on the papers. Mr. Wolf, yes, sir.

8 JUROR WOLF: Approximately 15 years ago I had a
9 year-long internship with the Department of Homeland Security.

10 THE COURT: And what kind of things were you exposed
11 to there?

12 JUROR WOLF: Just database administration.

13 THE COURT: Database administration. Is there
14 anything about that experience that you feel might make it
15 difficult for you to be impartial in judging this case?

16 JUROR WOLF: No.

17 THE COURT: All right. Thank you, Mr. Wolf.

18 Now is there anybody else? Anybody -- yes, your
19 name, please.

20 JUROR MEINKEN: My name is Timothy Meinken.

21 THE COURT: Yes, Mr. Meinken.

22 JUROR MEINKEN: I'm not in law enforcement, but my
23 brother is an agent in the DEA.

24 THE COURT: Is he around here?

25 JUROR MEINKEN: No, he is not.

1 THE COURT: All right. Is there anything he may have
2 told you about his experiences as a DEA agent that you feel
3 could affect your ability to judge this case impartially?

4 JUROR MEINKEN: No, I don't think so.

5 THE COURT: In any respect do you think you might
6 believe the testimony of a federal law enforcement officer over
7 that of a civilian because your brother is a federal law
8 enforcement officer?

9 JUROR MEINKEN: No, ma'am.

10 THE COURT: All right. Thank you, sir.

11 Anybody else? Some of you have already answered this
12 question, so you don't need to repeat your answers. But are
13 there any other jurors who have any specialized training or
14 experience, either in the areas of counterterrorism or
15 radicalization? Is there anybody?

16 Have any members of the panel had any particularly
17 positive or negative experiences with persons of the Muslim
18 faith? Is there anybody?

19 Yes, ma'am, your name, please.

20 JUROR MATTOS: Kathy Mattos.

21 THE COURT: Yes, Ms. Mattos.

22 JUROR MATTOS: I teach English as a second language
23 to immigrants, and there are numerous people of the Muslim
24 faith.

25 THE COURT: And it will probably -- you will hear

1 that the defendant is a convert to Islam. In any respect would
2 your experience with members of that faith in your view make
3 any difference to you in terms of how you would judge this
4 case?

5 JUROR MATTOS: I don't think so.

6 THE COURT: All right. Thank you, ma'am.

7 Is there anybody else? Yes, in the back.

8 JUROR KASUN: Regina Kasun. I'm in health care, and
9 I work with many health care professionals that are Muslim.

10 THE COURT: And, Ms. Kasun, is there any --

11 JUROR KASUN: It's been positive. I don't think it
12 would make any difference.

13 THE COURT: In any respect would you feel that that
14 religion would in any way factor into your decision making in
15 this case?

16 JUROR KASUN: No.

17 THE COURT: All right. Thank you, Ms. Kasun.

18 There were some other hands. Yes, ma'am, your name,
19 please.

20 JUROR LAYTON: Georgianna Layton. I taught for
21 five years, so I have had a lot ESL students, ESL families.
22 And now for the last five years I mentor teachers. So I work
23 with first- and second-year teachers, and I have ESL teachers
24 there, numbers of students, but there have been positive
25 interactions.

1 THE COURT: So again, nothing about those
2 interactions that might affect your ability to be impartial in
3 judging the case?

4 JUROR LAYTON: No, ma'am.

5 THE COURT: All right. Thank you.

6 Yes, I see another hand there. Yes, ma'am.

7 JUROR HILLA: Elizabeth Hilla.

8 THE COURT: How do you spell your last name?

9 JUROR HILLA: H-i-l-l-a.

10 THE COURT: I have got you. Yes, ma'am.

11 JUROR HILLA: And same as these ladies, I teach
12 English as a second language as a volunteer position, so I meet
13 lots of people from Muslim countries.

14 THE COURT: And you don't feel that in any respect
15 would affect your ability to be impartial in judging --

16 JUROR HILLA: I don't think so.

17 THE COURT: All right. Thank you, Ms. Hilla.
18 Way in the back, yes, ma'am.

19 JUROR McKENZIE: I think this might be repetitive,
20 but I --

21 THE COURT: Are you Ms. Evans?

22 JUROR McKENZIE: Ms. McKenzie.

23 THE COURT: I am sorry, Ms. McKenzie.

24 JUROR McKENZIE: What number am I?

25 THE COURT: I will give it to you in a second here.

1 You are, if you are Patricia McKenzie, you are 53.

2 JUROR McKENZIE: Thank you. I'm an HR consultant
3 working with the Virginia Department of transportation, so I
4 work with a very diverse group of people in the community
5 allot. So I would have no issues on this matter.

6 THE COURT: Thank you, Ms. McKenzie.

7 On the far side, yes.

8 JUROR HOWARD: Elizabeth Howard.

9 THE COURT: Yes, Ms. Howard.

10 JUROR HOWARD: Just in terms of positive experiences,
11 I have personal friends who are Muslim.

12 THE COURT: And again, do you feel in any respect
13 that could affect your ability to judge this case impartially?

14 JUROR HOWARD: No, I do not.

15 THE COURT: All right. Thank you, ma'am.

16 And in the back, yes, your name, please.

17 JUROR GOPAL RATNAM: Ajitha Gopal Ratnam.

18 THE COURT: You will have to spell the last name.

19 JUROR GOPAL RATNAM: G-o-p-a-l --

20 THE COURT: I have got you, Mr. Ratnam.

21 JUROR GOPAL RATNAM: I have got friends who are
22 Muslim. Nothing, I have just had positive --

23 THE COURT: So again, you don't feel that would
24 affect you one way or the other?

25 JUROR GOPAL RATNAM: No.

1 THE COURT: All right. Thank you, ma'am.
2 Anyone else on this side?
3 Center?
4 How about the far right? Let me start at the front.
5 Yes, ma'am, your name, please.
6 JUROR TUCKER: Elke Tucker.
7 THE COURT: Can you spell the last name.
8 JUROR TUCKER: T-u-c-k-e-r.
9 THE COURT: Yes, Ms. Tucker.
10 JUROR TUCKER: My stepson is Muslim, and the whole
11 family, but no negative experiences.
12 THE COURT: So again, that would not in your view
13 make any difference to you?
14 JUROR TUCKER: Probably not.
15 THE COURT: I am sorry?
16 JUROR TUCKER: Probably not.
17 THE COURT: No. All right. Thank you, Ms. Tucker.
18 Way in the back in the corner. Your name, sir.
19 JUROR WOLF: Garrett Wolf.
20 THE COURT: Yes, Mr. Wolf.
21 JUROR WOLF: I am a Christian pastor, but I
22 participate in a lot of interfaith community dialogs with
23 people of various different faiths and backgrounds, but it's
24 all been positive experiences.
25 THE COURT: All right. So again, that wouldn't make

1 any difference to you one way or the other?

2 JUROR WOLF: No.

3 THE COURT: All right, thank you.

4 And in the corner.

5 JUROR WUKITSCH: Thomas Wukitsch.

6 THE COURT: Can you spell the last name again.

7 JUROR WUKITSCH: W-u-k-i-t-s-c-h.

8 THE COURT: Yes, sir.

9 JUROR WUKITSCH: I have several personal friends who
10 are Muslim, including a college roommate who is still one of my
11 best friends. I do not feel that would affect my ability to
12 judge this case fairly.

13 THE COURT: All right. Thank you, sir.

14 Anybody else?

15 JUROR ASIAMA: I am a Christian, and my wife is --

16 THE COURT: I am sorry, wait a second. You are Mr.
17 Asiama, number 2.

18 JUROR ASIAMA: Kwami Asiama.

19 THE COURT: Yes, sir.

20 JUROR ASIAMA: I grew up in Ghana where we have
21 Muslims and Christians living together in a positive way. And
22 I am practicing Christian, and I tried to convert some of them,
23 and I am not successful, but that's who I am.

24 THE COURT: And do you feel in any respect the fact
25 that the defendant is a convert to Islam, would that in any

1 respect affect your ability to judge this case fairly?

2 JUROR ASIAMA: No.

3 THE COURT: All right. Thank you, sir.

4 Is there anyone else?

5 Now, there will be evidence in this case of Mr. Young
6 possessing white supremacist and Nazi materials and having
7 expressed anti-Israel and anti-Semitic views. This evidence is
8 being submitted solely to address the issue of the defendant's
9 predisposition. Mr. Young is not being prosecuted for
10 possessing such materials or holding such beliefs.

11 Would you have any difficulty in fairly evaluating
12 the case in light of such evidence?

13 Would that evidence give any of you difficulty in
14 evaluating this case? All right. There may also be -- yes,
15 ma'am. And your name again.

16 JUROR TUCKER: Elke Tucker.

17 THE COURT: Yes, Ms. Tucker.

18 JUROR TUCKER: In regards to Nazi material, I am from
19 Germany, and I am particularly sensitive in that regard to that
20 period of time.

21 THE COURT: So you think that could affect how you
22 would judge the case, Ms. Tucker?

23 JUROR TUCKER: I would have to listen to it. I don't
24 know.

25 THE COURT: But it might?

1 JUROR TUCKER: Could be. I don't know.

2 THE COURT: All right. Thank you, ma'am.

3 Is there anybody else? Yes, Mr. Asiama.

4 JUROR ASIAMA: As a former student of the University
5 of Science and Technology in Ghana in Africa, in '87 I was a
6 member of the Ghana Holyland Fellowship Association. In that
7 capacity, we visited Israel. I just want to make sure I put
8 that in the record.

9 THE COURT: But in any respect, would that make it
10 difficult for you to be impartial in judging this case?

11 JUROR ASIAMA: No.

12 THE COURT: No? All right, sir.

13 Yes, ma'am. And you are Ms. Brooks?

14 JUROR BROOKS: Kira Brooks. My husband and his
15 family are Jewish, and that would be hard for me to be
16 impartial.

17 THE COURT: All right. Thank you, Ms. Brooks.

18 Anybody else on the left side?

19 How about in the center? Yes, ma'am, your name,
20 please.

21 JUROR OBUCHOWSKI-BERMAN: Susan Obuchowski-Berman.

22 THE COURT: Yes, ma'am.

23 THE OBUCHOWSKI-BERMAN: My husband's side of the
24 family is Jewish.

25 THE COURT: And do you feel that that kind of

1 evidence might make it difficult for you to be impartial?

2 JUROR OBUCHOWSKI-BERMAN: Yes.

3 THE COURT: All right. Thank you, ma'am.

4 Is there anybody else? Yes, your name, please.

5 JUROR PEISACH: Brian Peisach.

6 THE COURT: Can you spell the last name.

7 JUROR PEISACH: P-e-i-s-a-c-h.

8 THE COURT: Mr. Peisach, number 62. Yes, sir.

9 JUROR PEISACH: Well, I am Jewish, so I would be --

10 THE COURT: Would that make it --

11 JUROR PEISACH: I would be against anti-Semitism.

12 But in terms of the case, I don't think it would influence me.

13 THE COURT: Do you feel though that if somebody had
14 that kind of literature in their possession or maybe espoused
15 anti-Israeli feelings, that that could make it difficult for
16 you to evaluate his case fairly?

17 JUROR PEISACH: I think I could evaluate the case
18 fairly.

19 THE COURT: All right. Thank you, sir.

20 Anybody else? All right.

21 There may be evidence in this case of Mr. Young
22 legally possessing multiple firearms. Would any of you because
23 of things you have seen or heard about firearm possession in
24 United States, or because you are in advocacy groups either for
25 or against firearms, feel that that kind of evidence might make

1 it difficult for you to be fair in evaluating this case? Is
2 there anybody?

3 Yes, ma'am, your name, please.

4 JUROR KASUN: Regina Kasun. I forget what number I
5 am. I think I am 41.

6 THE COURT: Yes, 42.

7 JUROR KASUN: 42. I just have never been pro gun. I
8 served in the military as an Army nurse way back, but just I
9 have never been pro gun personally.

10 THE COURT: And so, if you had evidence of possession
11 of multiple firearms, that could be a problem for you?

12 JUROR KASUN: It might sway my decision one way or
13 the other. I am uncertain.

14 THE COURT: All right. Thank you, ma'am.

15 Yes, your name, please.

16 JUROR MATTOS: Kathy Mattos.

17 THE COURT: Yes, Ms. Mattos.

18 JUROR MATTOS: Personal feelings against firearm
19 possession, especially multiples, make me wonder if I could be
20 really fair.

21 THE COURT: Thank you, ma'am.

22 Yes, sir, your name, please.

23 JUROR McILVENNA: Scott McIlvenna. I am not sure of
24 my number.

25 THE COURT: 52.

1 JUROR McILVENNA: 52, okay. I own a rifle for deer
2 hunting, so a state Virginia license. But I would be impartial
3 to any information.

4 THE COURT: And that's fine. I mean, the Second
5 Amendment gives you a right to possess firearms, but some
6 people because of personal experiences, things they have read,
7 membership in the NRA, or membership in the Brady organization,
8 have strong views about firearm possession such that it could
9 affect an impartial evaluation of the case.

10 JUROR McILVENNA: I don't have any memberships with
11 anything like that.

12 THE COURT: So you don't have any problems with the
13 firearms?

14 JUROR McILVENNA: No, ma'am.

15 THE COURT: All right. Thank you, sir.

16 Anyone else in the center? How about way in the
17 back. Yes, sir, your name, please.

18 JUROR GHOSE: Devajyoti Ghose. I don't have my juror
19 number.

20 THE COURT: Wait, wait one second. You are number
21 29.

22 JUROR GHOSE: So I do have strong views about
23 firearms. And I have some members of my family who had bad
24 experiences.

25 THE COURT: So you feel that that evidence could make

1 a problem for you in being impartial?

2 JUROR GHOSE: I am not sure. It would depend upon
3 the type of weapons, but it is hard to make a broad judgment
4 about that.

5 THE COURT: All right. Thank you, sir. Thank you.
6 Against the wall there, yes, sir.

7 JUROR DAVIS: Yes, Ken Davis, juror 17. I don't have
8 any affiliation with any firearms organizations, but I do have
9 strong personal feelings about ownership of multiple firearms.

10 THE COURT: Do you feel that those feelings could
11 affect how you might judge this case?

12 JUROR DAVIS: Potentially, depending upon the
13 quantity and the type of firearm.

14 THE COURT: All right. Thank you, sir.
15 Anybody else? Yes, your name.

16 JUROR TUCKER: Again, Elke Tucker.

17 THE COURT: I'm sorry, your last name again?

18 JUROR TUCKER: Tucker, T-u-c-k-e-r.

19 THE COURT: Yes, Ms. Tucker. The firearms give you
20 concern as well?

21 JUROR TUCKER: Yes. I am from Germany, we have
22 strict gun laws, guns aren't allowed. And my personal belief
23 is they are too permissible with guns laws, so I would have a
24 problem.

25 THE COURT: All right. Thank you, ma'am.

1 Is there anybody else? Yes, Mr. Asiama.

2 JUROR ASIAMA: I think I would be really biased when
3 it comes to guns because I have a strong conviction about
4 firearms possession.

5 THE COURT: Thank you, sir.

6 Is there anybody else? All right.

7 Have any members of the panel themselves, or again,
8 remember, this applies to your immediate family members or
9 close personal friends, ever been the subject of a criminal
10 investigation or charged with violating a non-traffic criminal
11 law?

12 Anybody who has had that issue come up? All right.

13 Have any members ever been the victim of a crime of
14 violence related to terrorism?

15 Yes, sir, your name again.

16 JUROR McCRAVE: Michael McCrave.

17 THE COURT: Yes, Mr. McCrave.

18 JUROR McCRAVE: I had numerous friends at the
19 Pentagon on 9/11.

20 THE COURT: All right. Now, would that experience in
21 your view possibly affect how you might judge this case?

22 JUROR McCRAVE: I would like to think not.

23 THE COURT: I understand there is an ambivalence
24 there. I mean, listen, it's very difficult to say, I'm not
25 sure I can be fair, but it's really important that you do that

1 kind of careful analysis.

2 JUROR McCRAVE: Well, I have been thinking also on
3 the white supremacist literature and such, and that does
4 somewhat disturb me.

5 THE COURT: All right. Thank you, sir.
6 Yes.

7 JUROR PHILLIPS: Carter Phillips, Your Honor.

8 THE COURT: Yes, sir.

9 JUROR PHILLIPS: I am the chair of Sidley Austin.
10 Sidley's offices were destroyed in 9/11. I would have a hard
11 time putting that out of my mind.

12 THE COURT: These are tough questions. There are
13 serious issues in this case. And I appreciate that, Mr.
14 Phillips. Thank you.

15 JUROR PHILLIPS: Thank you, Your Honor.

16 THE COURT: Way in the back. Yes, sir, your name,
17 please.

18 JUROR WUKITSCH: Thomas Wukitsch.

19 THE COURT: Yes, I am sorry, how do you spell your
20 last name?

21 JUROR WUKITSCH: W-u-k-i-t-s-c-h.

22 THE COURT: Yes, Mr. Wukitsch.

23 JUROR WUKITSCH: Both of my parents were foreign
24 service officers serving in the Middle East.

25 THE COURT: We are having trouble hearing you. Can

1 you speak --

2 JUROR WUKITSCH: Both of my parents were foreign
3 service officers serving in the Middle East. Both of them,
4 particularly my father, were subject to various attempted
5 terrorist actions from time to time, people attempting to blow
6 him up in the course of his duties. That never actually
7 occurred, thankfully. And I do not think it would affect my
8 impartiality in this.

9 THE COURT: You do not think that would affect you?

10 JUROR WUKITSCH: No. No, I do not.

11 THE COURT: All right. Thank you, sir.

12 Yes, your name, please.

13 JUROR YIANILOS: Chris Yianilos.

14 THE COURT: Yes, sir.

15 JUROR YIANILOS: Your Honor, go back to your previous
16 question, I think it was whether you had a family member or
17 close personal friends that had been convicted of something
18 more than a minor traffic.

19 THE COURT: Correct.

20 JUROR YIANILOS: I have a close personal friend that
21 was convicted of a federal drug conspiracy.

22 THE COURT: Was it in this court, if you know?

23 JUROR YIANILOS: It was in this court back in the
24 late '80s.

25 THE COURT: Do you know whether I might have been the

1 judge?

2 JUROR YIANILOS: You were not.

3 THE COURT: All right. Is there anything about that
4 experience in your family or -- did you come to the trial at
5 all?

6 JUROR YIANILOS: No. And it was a friend, not a
7 family member.

8 THE COURT: All right. Is there anything about that
9 experience that you feel could affect your impartiality in
10 judging this case?

11 JUROR YIANILOS: No, Your Honor.

12 THE COURT: All right. Thank you, sir.

13 Folks, I have asked you a lot of questions. If there
14 is something that comes to mind as this is going on and you
15 realize that maybe you have an answer to a previous question,
16 it's perfectly appropriate for you to raise your hand.

17 All right. I think the question we're asking though
18 right now was whether any of you have ever been the victim of a
19 crime of violence involving terrorism.

20 Yes, ma'am, your name, please.

21 JUROR LAYTON: Georgianna Layton. My sister and
22 cousin were in the Twin Towers, they both came out alive, but
23 very scary thought.

24 And going back, with gun control, my brother-in-law
25 just recently passed, was a New York City policeman, shot in

1 the line of duty. His partner was shot and killed, and they
2 maimed him in the knees so he couldn't do anything to help him.

3 So gun control, I am against also.

4 THE COURT: So do you feel those experiences might
5 make it difficult for you to be impartial in judging this case?
6 Some of those issues --

7 JUROR LAYTON: Gun control I feel very strongly
8 about.

9 THE COURT: All right.

10 JUROR LAYTON: Because that was a police officer that
11 was attacked, both of them.

12 THE COURT: Thank you, ma'am. Thank you.

13 Anybody else?

14 I think we have had a few of you who told me you are
15 lawyers, but let me just ask this question. Have any of you
16 received any training in the law? That is, are you currently a
17 lawyer or have taken law courses? Are you a paralegal or have
18 taken paralegal courses? Are you a legal secretary? Or do you
19 work in a law firm?

20 So I want to know now whether any of you have any
21 training or experience in the field of law? Anybody on the
22 left side? No?

23 How about in the center? Mr. McCrave.

24 JUROR McCRAVE: Yes, ma'am. I was a Navy legal
25 officer for two years on the ship.

1 THE COURT: All right. Thank you, sir.

2 Anybody else in the center? Yes, ma'am. You are --

3 JUROR OBUCHOWSKI-BERMAN: Susan Obuchowski-Berman.

4 THE COURT: Yes. And you have some legal training?

5 JUROR OBUCHOWSKI-BERMAN: I do. I have a Master's in
6 criminal justice investigation, so I did take some law courses
7 during that. And I deal with law in my day-to-day work.

8 THE COURT: All right. Thank you, ma'am.

9 Yes, Mr. --

10 JUROR OLIVER: Juror number 60. I am currently
11 enrolled in university, criminal justice student.

12 THE COURT: And you are Mr. Oliver?

13 JUROR OLIVER: Yes, ma'am.

14 THE COURT: All right. You're taking courses.

15 All right. Anybody else? Yes.

16 JUROR YIANILOS: Christopher Yianilos. I'm an
17 inactive member of the Virginia Bar. And I served as a federal
18 law clerk in the mid-'90s.

19 THE COURT: Where did you clerk?

20 JUROR YIANILOS: Southern District of West Virginia.

21 THE COURT: Is there anything about your legal
22 training or experience that you feel could affect your
23 impartiality in this case?

24 JUROR YIANILOS: No, Your Honor.

25 THE COURT: Now, at the end of the trial I give the

1 jury the legal instructions. Those are the principles of law
2 that have to be applied.

3 Should I explain a principle that is different from
4 what you might remember it being, or you disagree with how I
5 have phrased it, can you put aside your own view of the law and
6 just follow the law as given to you by the Court.

7 JUROR YIANILOS: Yes, Your Honor. I don't think I
8 have my own views of the law anymore, it has been so long.

9 THE COURT: They might come back when you've heard
10 them. But anyway -- All right. Thank you, sir.

11 Is there anybody else? All right, Mr. Phillips, I
12 know about you.

13 Yes, sir, your name again.

14 JUROR PEISACH: Brian Peisach.

15 THE COURT: Your name?

16 JUROR PEISACH: Brian Peisach.

17 THE COURT: Yes, Mr. Peisach.

18 JUROR PEISACH: I have taken some courses in college
19 on criminology and business law.

20 THE COURT: All right. Thank you, sir.

21 Anybody else?

22 Do any members of the panel have any prior jury
23 experience either serving on a trial jury or a grand jury,
24 whether in state or federal court?

25 How about -- all right, we will start on the right

1 side this time. Yes, the person on the aisle.

2 JUROR SHANHOLTZER: Yeah, Mike Shanholtzer. I think
3 I am 72. I was on a criminal trial case in Leesburg.

4 THE COURT: How long ago, do you remember?

5 JUROR SHANHOLTZER: Probably ten years ago.

6 THE COURT: And what was the issue in the case?

7 JUROR SHANHOLTZER: It was assault and battery, and
8 some theft involved, felony theft.

9 THE COURT: Do you remember what the jury did?

10 JUROR SHANHOLTZER: It was a conviction.

11 THE COURT: Was there anything about your experience
12 as a juror in that case that you feel could affect your
13 impartiality in judging this case?

14 JUROR SHANHOLTZER: No, I don't think so.

15 THE COURT: All right. Thank you, sir.

16 How about anybody else on the right side? Yes, your
17 name, please.

18 JUROR TUMP: Neil Tump.

19 THE COURT: What's the last name?

20 JUROR TUMP: Tump, T-u-m-p.

21 THE COURT: Tump, T-u-m-p, yes, sir.

22 JUROR TUMP: Served on jury duty in the state of
23 Florida ten years ago in a criminal case.

24 THE COURT: What was at issue, do you remember?

25 JUROR TUMP: Drugs, drug dealing.

1 THE COURT: What did the jury do?

2 JUROR TUMP: Convicted.

3 THE COURT: Was there anything about your experience
4 as a juror in that case that you feel could affect your
5 impartiality to be a juror in this case?

6 JUROR TUMP: No, Your Honor.

7 THE COURT: All right. Thank you, Mr. Tump.

8 Anyone else on the right side? Yes, ma'am.

9 JUROR TUCKER: Yes, I was a juror in Manassas
10 12 years ago.

11 THE COURT: Was there anything about that experience
12 that you feel could affect your impartiality?

13 JUROR TUCKER: No.

14 THE COURT: All right. Thank you, ma'am.

15 And way in the back. Yes, sir, your name, please.

16 JUROR GOLDSTEIN: Ron Goldstein.

17 THE COURT: Yes, Mr. Goldstein.

18 JUROR GOLDSTEIN: I served on a municipal court jury
19 in Southern California.

20 THE COURT: How long ago was that, if you can recall?

21 JUROR GOLDSTEIN: About 30 years.

22 THE COURT: What was at issue, do you remember?

23 JUROR GOLDSTEIN: Prostitution, assault and battery,
24 and repossession of a home.

25 THE COURT: And what did the jury do?

1 JUROR GOLDSTEIN: Prostitution was a conviction.
2 Repossession of the home, he lost the home plus punitive
3 damages. And the assault and battery was dismissed.

4 THE COURT: Is there anything about those experiences
5 that you feel could affect your impartiality in judging this
6 case?

7 JUROR GOLDSTEIN: No.

8 THE COURT: All right. Thank you, Mr. Goldstein.

9 How about in the center section? Let's start in the
10 first row. Again, your name, sir.

11 JUROR EVANCHO: Evancho, George. I served in a civil
12 case back in, oh, gosh, 1972 while I was a student at King's
13 College in Wilkes Barre, Luzerne County. And a criminal case
14 in Prince William County sometime during the '90s, I don't
15 remember exactly.

16 THE COURT: What was involved in the criminal case?

17 JUROR EVANCHO: It was drugs.

18 THE COURT: Drugs?

19 JUROR EVANCHO: Yes.

20 THE COURT: And what did the jury do?

21 JUROR EVANCHO: It was pled several days into the
22 case. There was a plea agreement. And we don't know what
23 happened.

24 THE COURT: Was there anything about those
25 experiences that you feel could affect your impartiality in

1 judging this case?

2 JUROR EVANCHO: No, Your Honor.

3 THE COURT: All right. Thank you, sir.

4 Yes, ma'am.

5 JUROR LEWIS: Michele Lewis.

6 THE COURT: I am sorry, the last name?

7 JUROR LEWIS: Lewis. I am sorry.

8 THE COURT: Yes, ma'am, Lewis.

9 JUROR LEWIS: I served as a foreman of the grand jury
10 out in Prince William County about five years ago. But no jury
11 duty. I just served as the foreman.

12 THE COURT: All right. Now, you know that grand
13 juries are very different from trial juries?

14 JUROR LEWIS: Right, right. Oh, yeah.

15 THE COURT: Ms. Lewis, was there anything about your
16 experience on a grand jury that you feel could affect your
17 impartiality in judging this case?

18 JUROR LEWIS: No.

19 THE COURT: Thank you, ma'am.

20 Yes, your name again, please.

21 JUROR McILVENNA: McIlvenna, I think it's 52, if I
22 can remember correctly.

23 THE COURT: It is.

24 JUROR McILVENNA: Leesburg, probably about 12 years
25 ago, a DUI case. The individual was convicted, kind of go

1 through a rehabilitation program.

2 THE COURT: Was there anything about your experience
3 on that jury that you feel might make it difficult for you to
4 be an impartial juror in this case?

5 JUROR McILVENNA: No, Your Honor.

6 THE COURT: Thank you, sir.

7 Way in the back. Yes, sir.

8 JUROR YIANILOS: Last name Yianilos.

9 THE COURT: Yes, sir.

10 JUROR YIANILOS: Perhaps two or three years ago I was
11 in a jury in the city of Alexandria for a DUI case.

12 THE COURT: Was there anything about that -- what did
13 the jury do in that case?

14 JUROR YIANILOS: Convicted.

15 THE COURT: Was there anything about that experience
16 that you feel could affect your impartiality as a juror in this
17 case?

18 JUROR YIANILOS: No, Your Honor.

19 THE COURT: All right. Thank you, sir.

20 All right. Yes, yes, ma'am.

21 JUROR KASUN: Regina Kasun, 42. I was just thinking
22 about the white supremacy issue. And I think that that might
23 be difficult for me.

24 THE COURT: Thank you, Ms. Kasun.

25 All right. Way in the back. Yes, you are Mr. --

1 JUROR OLIVER: Juror number 60, Oliver.

2 THE COURT: Mr. Oliver.

3 JUROR OLIVER: What she just said, with the white
4 supremacy, that would be a problem for me.

5 THE COURT: Thank you, Mr. Oliver.

6 On the left side, is there anybody -- do I have
7 everybody with jury experience now? Anybody on the left side?

8 Do any members of the panel feel that they have a
9 problem understanding or speaking English? Anybody?

10 All right. Let me start with -- your name, please.

11 JUROR CAYLOR: Caylor, Nubia.

12 THE COURT: Can you spell the last name.

13 JUROR CAYLOR: C-a-y-l-o-r.

14 THE COURT: Ms. Caylor?

15 JUROR CAYLOR: Yes.

16 THE COURT: Have you had any trouble understanding
17 what I have said?

18 JUROR CAYLOR: No. But if I am required to do
19 writing, or sometimes understanding very sophisticated words, I
20 may have trouble.

21 THE COURT: Ms. Caylor, jurors don't have to write
22 anything.

23 JUROR CAYLOR: All right.

24 THE COURT: But you have to be able to listen and
25 understand. And there may be -- there may be evidence that you

1 need to read. Do you have any trouble reading English?

2 JUROR CAYLOR: No. This is my first experience, so I
3 don't know what is involved. So I don't want to be -- do
4 something that I am unable to do properly.

5 THE COURT: I am able to understand you. And if you
6 have been able to understand me, then I think your English is
7 fine.

8 JUROR CAYLOR: All right. Thank you.

9 THE COURT: All right. Thank you, Mr. Caylor.
10 Let's see. Yes, your name, please.

11 JUROR CHOI: Kyou-Bin Choi. I think I'm number 12.

12 THE COURT: Number 12. Yes, Ms. Choi.

13 JUROR CHOI: Yes. Throughout the day I think I
14 understand most of the English, this is my second language, but
15 I kind of -- I think I'm missing some.

16 THE COURT: Do you feel you haven't understood
17 everything I've said?

18 JUROR CHOI: I guess some of them.

19 THE COURT: All right. Thank you, ma'am.

20 Way in the back. Yes, sir, your name, please.

21 JUROR GREWAL: Grewal, Rachpal.

22 THE COURT: Can you spell -- can you spell the last
23 name.

24 JUROR GREWAL: Grewal, G-r-e-w-a-l.

25 THE COURT: G-

1 JUROR GREWAL: -- r-e-w-a-l.

2 THE COURT: Grewal.

3 JUROR GREWAL: Yes, ma'am.

4 THE COURT: Yes, sir.

5 JUROR GREWAL: I have like some difficulty about
6 words I cannot understand. So I don't want to make a wrong
7 decision, that's what I am saying.

8 THE COURT: All right. Thank you, sir.

9 Yes, your name, please. The gentleman on the aisle.

10 JUROR KWAK: Yes, number 44, Tae Kwak. I already
11 tell you, I'm sorry, I cannot understand some communication.

12 THE COURT: All right, Mr. Kwak, thank you.

13 Anybody else for whom English is a problem? Yes,
14 sir, your name, please.

15 JUROR SHIVAPURKAR: Narayan Shivapurkar. I have a
16 case --

17 THE COURT: Wait, just one second, I have got to get
18 your name on my list here first. How do you spell the last
19 name?

20 JUROR SHIVAPURKAR: Shivapurkam. S-h-i-v-a --

21 THE COURT: You're number 73.

22 JUROR SHIVAPURKAR: Yes. Medically, I am taking some
23 medication, so I have temporary some hearing problems.
24 Hopefully it will be taken care of, but in the nearest future I
25 might have some problems, especially with your speaking from

1 there. I have some -- I have no problem with talking to him or
2 something.

3 THE COURT: Well, we do have hearing -- we have
4 earphones that we can give people who have --

5 JUROR SHIVAPURKAR: Yes, something like that would be
6 needed.

7 THE COURT: And again, any juror who cannot
8 understand something -- jurors are not allowed to ask
9 questions, but if you couldn't hear, or if an English word was
10 not understandable, you can raise your hand as a juror and we
11 will correct that.

12 So if we are able to give you the headset, do you
13 feel that you understand English well enough?

14 JUROR SHIVAPURKAR: Yes, ma'am.

15 THE COURT: Very good. Thank you, sir.

16 Anybody else?

17 Now, ladies and gentlemen, I have asked a far range
18 of questions, and you all know the background for this. That
19 is, that we need to have jurors who can be completely impartial
20 as they evaluate this case and who have the time and the energy
21 to give this case.

22 So do any of you know of any other reason than you've
23 already given to me why you feel you could not sit as
24 completely attentive and fair juror?

25 All right, counsel, approach the bench.

1 NOTE: A side-bar discussion is had between the Court
2 and counsel out of the hearing of the jury panel as follows:

3 AT SIDE BAR

4 THE COURT: All right. I am planning to, if our
5 numbers are right, we are going to be two short. Which means
6 I'm taking the strikes from the Government. I want to get this
7 case started.

8 First of all, are there any additional voir dire
9 questions the Government wants the Court to ask?

10 MR. GIBBS: No. We're good, Judge.

11 THE COURT: You're satisfied. All right.

12 Any additional voir dire that the defense wants the
13 Court do ask?

14 MS. MORENO: We are satisfied.

15 THE COURT: You're satisfied. Here are the jurors I
16 am going to strike. All right. Number 2, Mr. Asiana. Number
17 9, Kira Brooks. Number 12, Choi. 17, Davis. 29, Ghose. 33,
18 Grewal. 42, Kasun, that was firearms and anti-Semitism. 44,
19 Kwak, that is English. 47, Layton. 50, Mattos. 51, McCrave.
20 59, Obuchowski-Berman, anti-Semitism was an issue there. 60,
21 Oliver, that was the white supremacy. 63 Phillips. 84,
22 Tucker, that was firearms and Nazi.

23 Are there any other jurors -- first of all, does the
24 Government have any objection to the jurors that I have struck?

25 MR. GIBBS: No, Judge.

1 THE COURT: Are there any additional jurors the
2 Government wants the Court to consider for cause?

3 MR. GIBBS: No, we're good, Judge. Thank you.

4 THE COURT: Are there any -- first of all, is there
5 any objection to the jurors whom I have just struck?

6 MS. MORENO: No, Your Honor.

7 THE COURT: All right. Are there any additional you
8 would like stricken?

9 MS. MORENO: Yes, Your Honor. We would ask juror
10 number 11, Caylor, Nubia Janeth, to be struck on the basis of
11 language. We believe that she does not -- she is not going to
12 be able to get through this case fairly.

13 And if the Court is conflicted about that, I would
14 ask the Court to ask her more deeply about that because she
15 volunteered that she had a problem. When she spoke, it seemed
16 like she did. This certainly was her second language.

17 So we would ask the Court to strike juror number 11,
18 I believe it is, for language issues. That's the first one.

19 THE COURT: Well, that's interesting. She works --
20 her employer is Virginia Heart. Let me find out what kind of
21 work she does do. Hold on, you all just all step aside for a
22 second.

23 NOTE: The side-bar discussion is concluded;
24 whereupon the case continues before the jury panel as follows:
25 BEFORE THE JURY PANEL

1 THE COURT: Ms. Caylor, what kind of work do you do?

2 JUROR CAYLOR: I work at INOVA Hospital.

3 THE COURT: You work at a hospital?

4 JUROR CAYLOR: INOVA. And I do registration.

5 THE COURT: Registration?

6 JUROR CAYLOR: Yes.

7 THE COURT: How long have you been in the United
8 States?

9 JUROR CAYLOR: Like 19 years.

10 THE COURT: 19 years?

11 JUROR CAYLOR: I can communicate fine and I write,
12 but I don't know what level for my English can be, like
13 superseded by what you guys require me to do.

14 THE COURT: It sounds as though you are more confused
15 about what you do as a juror than English.

16 JUROR CAYLOR: Yeah.

17 THE COURT: But you say you do registration at one of
18 the Fairfax hospitals?

19 JUROR CAYLOR: Yes.

20 THE COURT: Okay.

21 NOTE: A side-bar discussion is had between the Court
22 and counsel out of the hearing of the jury panel as follows:

23 AT SIDE BAR

24 THE COURT: I think her biggest problem is that she
25 has a little difficulty expressing herself. But if she has

1 been in the States for 19 years, she works registration at an
2 America hospital, she seemed to understand the question.

3 MS. MORENO: Well, Your Honor, I would say that a
4 juror has to be able to express themselves very well in the
5 deliberating room. And we would reassert our objection on the
6 basis of language for cause to that particular juror.

7 THE COURT: I am going have to sit down and do the
8 math on this to see. We are so close to having enough jurors,
9 we need to get this case going. I will think about it.

10 Go ahead.

11 MS. MORENO: May I ask Your Honor, did the Court
12 strike juror 17?

13 THE COURT: Yes.

14 MS. MORENO: Okay, thank you. I'm so sorry.

15 THE COURT: That was firearms, among other things.

16 MS. MORENO: Your Honor, we would assert that juror
17 number 22, Mr. Evancho, should be stricken for cause. He had
18 dealings with the SCIF. He thinks he is familiar with Mr.
19 Gervino. In fact, the quote is, he's sure he has had dealings
20 with Mr. Gervino, who is a witness for the prosecution. He is
21 a retired federal employee.

22 We would ask the Court to find a cause challenge on
23 juror number 22.

24 THE COURT: Yeah, I had double question marks about
25 him too. If I had enough, I would be much more willing to. We

1 have got to check the numbers.

2 MS. MORENO: If I may, just 30 seconds, Your Honor.

3 Oh, juror number 73, Mr. Shivapurkar. I do not
4 believe the Court struck juror number 73. And you talked about
5 his hearing issues. But I am convinced that language is an
6 issue for this particular juror. And we don't believe that he
7 can -- that he is fit to serve, understanding the language and
8 expressing himself as a juror must do in deliberations.

9 So we would urge a cause strike on juror number 73.

10 I think that may be -- oh, sorry, there is one more.

11 THE COURT: Well, believe it or not, he is on the
12 university faculty at Georgetown. So let me -- if we're
13 talking about the same juror.

14 MS. MORENO: Shivapurkar.

15 THE COURT: Shivapurkar, number 73. He is a
16 university professor. So English will not be a problem. I
17 will double-check that. Let me do that right now.

18 MR. SMITH: Could we provide him with a headset?

19 THE COURT: Yes.

20 NOTE: The side-bar discussion is concluded;
21 whereupon the case continues before the jury panel as follows:

22 BEFORE THE JURY PANEL

23 THE COURT: Mr. Shivapurkar, where are you, sir?
24 Shivapurkar?

25 Did he go out?

1 Give him some headsets.

2 Mr. Shivapurkar, can you hear me now?

3 JUROR SHIVAPURKAR: Yeah, yeah, no problem.

4 THE COURT: Do I understand you are a university
5 professor at Georgetown?

6 JUROR SHIVAPURKAR: I am, yes.

7 THE COURT: What do you teach?

8 JUROR SHIVAPURKAR: I am in oncology.

9 THE COURT: Oncology?

10 JUROR SHIVAPURKAR: Yes.

11 THE COURT: So you are in medicine?

12 JUROR SHIVAPURKAR: Medical school, yes.

13 THE COURT: Do you have any problem with English at
14 all?

15 JUROR SHIVAPURKAR: No, no.

16 THE COURT: It's just the hearing?

17 JUROR SHIVAPURKAR: Yeah, the hearing, anything you
18 say to me, it can be taken care of, but I am not sure whether
19 it can be taken care of within a week or so.

20 THE COURT: If we have the earphones that we can give
21 you for the whole trial, will that --

22 JUROR SHIVAPURKAR: Yes, that's fine.

23 THE COURT: Thank you.

24 NOTE: A side-bar discussion is had between the Court
25 and counsel out of the hearing of the jury panel as follows:

1 AT SIDE BAR

2 THE COURT: Okay, he can hear.

3 MS. MORENO: One last --

4 THE COURT: Wait, wait, one second. Go ahead.

5 MS. MORENO: One last request, Your Honor. Juror
6 number 62, Brian Peisach.

7 Your Honor, he identified -- he stood up when the
8 Court was inquiring about whether anyone would have any issues
9 or problems with the white supremacist literature and the Nazi
10 paraphernalia. He immediately identified himself. And he said
11 that he -- first, he said he would, and then he said he
12 wouldn't.

13 And I don't think the Court should take any chances
14 with a juror like that. So we would urge a cause strike
15 against juror number 62.

16 MR. GIBBS: Judge, I don't think that's a basis for
17 cause. Again, you asked a very clear question. He talked
18 about it, but the follow up was: Can you be fair and
19 impartial --

20 THE COURT: I'm not going to strike every Jewish
21 member of the panel. He identified himself as Jewish, but he
22 did not indicate there would be a problem.

23 So you certainly have a bunch of peremptories, you
24 have got 11, so I am not taking any peremptories away from you,
25 but I am going to overrule that objection. So he will still be

1 on the board.

2 And it's one attorney per issue. So, Ms. Moreno,
3 you've got the voir dire. But the same, when you have got a
4 witness, if you do the direct, you do all the objecting for
5 that witness.

6 MS. MORENO: I understand.

7 MR. GIBBS: Thank you, Judge.

8 THE COURT: So the two I haven't resolved, Caylor I'm
9 satisfied, I am going to overrule your objection on Caylor
10 because 19 years in the United States and she is a registrar at
11 a local hospital.

12 Evancho is the only one, number 22.

13 MS. MORENO: Your Honor --

14 THE COURT: The problem we apparently have is that
15 the last juror, the professor, because he didn't let us know
16 that he wasn't able to hear, did not probably hear the whole
17 voir dire. So I hate to have to do it all over again.

18 Is the Government sufficiently satisfied with the
19 basic pool that we have got that you're not going to squawk
20 about losing one or two peremptories?

21 MR. GIBBS: We are not going to squawk about that.
22 That's fine if we lose some peremptories.

23 THE COURT: All right. Well, I am going to go ahead
24 and -- I am not going to over the whole -- we have been here
25 for two hours. I am not going to --

1 MS. MORENO: Your Honor, we are going to withdraw our
2 objection to juror number 73. We will withdraw our
3 peremptory -- I mean, our challenge for cause to juror number
4 73.

5 THE COURT: Then I will trade you, I will give you
6 Evancho.

7 MS. MORENO: Thank you, Your Honor.

8 THE COURT: All right. So Evancho is out, 22 is out.
9 All right. Caylor is staying in. And Mr. Shivapurkar is
10 staying in. Okay.

11 Are we all clear on that? Ready?

12 MS. MORENO: May I ask, Your Honor, just the next
13 protocol in terms of the striking, will we have just a couple
14 of minutes to confer about these names?

15 THE COURT: You have got to do it quickly, but go
16 ahead.

17 MS. MORENO: I understand.

18 THE COURT: One more minute. Up here though. I
19 don't want you going back to your tables.

20 In terms -- I thought what the Court was going to do
21 was put 14 in the box now.

22 THE COURT: Only of the ones that I have not stricken
23 from the -- yes. The next thing that is going to happen is my
24 courtroom deputy will call 14 names. They are going up there.
25 But the 14 she calls are going to be from the group that I have

1 not stricken for cause.

2 MS. MORENO: Yes, Your Honor.

3 THE COURT: You then start using your peremptories.

4 MS. MORENO: Yes, yes. But because we don't back
5 strike, we have to wait to see who the 14 are, am I correct in
6 that?

7 THE COURT: Yes.

8 MS. MORENO: Okay. I just wanted to make sure.

9 THE COURT: But once the 14 are there, you have got
10 14 in the box, the Government gets the board first. If they
11 don't strike anybody --

12 MS. MORENO: I understand.

13 THE COURT: If they strike two, you have got 12 left.

14 MS. MORENO: I understand.

15 THE COURT: But anyone who you don't strike on that
16 first round is in.

17 MS. MORENO: I understand. No back-striking.

18 THE COURT: Then we're set to go.

19 MS. MORENO: I appreciate that.

20 THE COURT: And I am finding the panel now to be
21 without any problems. All right. This panel is acceptable to
22 the Court. I think we are going to go ahead and choose a jury.

23 NOTE: The side-bar discussion is concluded;
24 whereupon the case continues before the jury panel as follows:
25 BEFORE THE JURY PANEL

1 THE CLERK: If I call your name, please come forward
2 and have a seat in the jury box.

3 Juror number 26, Jo Ellen Frost. Juror number 54,
4 Timothy Meinken. Juror number 32, Ajitha Gopal Ratnam. Juror
5 number 48, Michele Lewis. Juror number 62, Brian Peisach.
6 Juror number 70, Justin Scuiletti. Juror number 72, Michael
7 Shanholtzer. Juror number 91, Thomas Wukitsch. Juror number
8 31, Ronald Goldstein. Juror number 56, Scott Mueller, Sr.
9 Juror number 39, Robert Hull, Jr. Juror number 85, Neil Tump.
10 Juror number 5, Stephan Batt. Juror number 3, Lina Barkawi.

11 MS. MORENO: She is not --

12 THE COURT: No, she is not here.

13 THE CLERK: Juror number 45, David Larson.

14 NOTE: The lawyers exercise their strikes.

15 THE CLERK: If I call your name, you may leave the
16 courtroom and exit the building. Juror number 48, Michele
17 Lewis. Juror number 72, Michael Shanholtzer. Juror number 62,
18 Brian Peisach. Juror number 26, Jo Ellen Frost. Juror number
19 5, Stephan Batt.

20 NOTE: The above-named jurors are excused and leave
21 the courtroom.

22 THE CLERK: If I call your name, please come forward
23 and have a seat in the jury box. Juror number 30, Thomas
24 Goidich. Juror number 8, Arthur Briggs. Juror number 94,
25 Christopher Yianilos. Juror number 90, Garrett Wolf. Juror

1 number 10, Timothy Carper, IV.

2 NOTE: The lawyers exercise their strikes.

3 THE CLERK: If I call your name, you may leave the
4 courtroom and exit the building. Juror number 10, Timothy
5 Carper.

6 NOTE: The above-named juror is excused and leaves
7 the courtroom.

8 THE CLERK: If I call your name, please come forward
9 and have a seat in the jury box.

10 Juror number 1, Woogas Ali.

11 NOTE: No furthers strikes are taken.

12 THE CLERK: Ladies and gentlemen, will you please
13 stand and raise your right hand.

14 NOTE: The jury for the case is sworn.

15 THE COURT: I want to thank everybody who attended
16 court this afternoon, I know it has been a long time, but we
17 have now selected the 14 people who will be the jury in this
18 case.

19 So the rest of you are free to leave, or you may stay
20 and watch the proceedings. But thank you for your attendance.

21 NOTE: Those jurors not selected for jury duty are
22 excused and leave the courtroom.

23 THE COURT: Now, ladies and gentlemen, I know you
24 want to take a break, and in about five minutes I am going to
25 let you take a break, but I want to give you some preliminary

1 instructions.

2 First of all, Mr. Goidich and Mr. -- I'm sorry, I
3 don't have your names correct, Mr. Wukitsch, I am terrible on
4 names, but the two of you who are sitting on the end, we are
5 going to give you notebooks and let you pass them down to each
6 other. I am sorry, they are on the other end this time. So
7 Mr. Larson and Mr. Wolf.

8 Many judges don't let jurors take notes, but it is my
9 practice to let jurors take notes if they want to. And I just
10 want to give you a quick caution about that.

11 If you do decide to take notes, that's only for your
12 own personal memory aid. You don't have to take notes. It is
13 very important for jurors to make sure you're always watching
14 witnesses as they testify because facial expressions, how
15 people just walk around the courtroom, all that can tell you
16 something about them. And so, we don't want you to have your
17 head buried in your lap trying to take notes.

18 The most important thing is to be listening carefully
19 because at the end of the case you will have to rely upon your
20 memory of the evidence when you make your decisions.

21 If note taking helps you keep focussed and helps you,
22 you're welcome to take notes. But they are your own personal
23 memory aid. They are not evidence in the case. They are not
24 to be shown to the other jurors.

25 And you are all co-equal judges. Each of your

1 individual memories and your opinions about the evidence is
2 worthy of consideration and respect by all the other jurors.

3 The fact that some of you may have taken a lot of
4 notes doesn't mean that that juror's memory or opinion is any
5 more worthy of consideration than that of a juror who takes
6 very few or none.

7 So with those understandings in mind, you're welcome
8 to take notes. Whenever we're on a recess, just leave your
9 notebooks on your chairs, and we will get them back to you.
10 And of course, overnight we would keep them here as well.

11 Now, very quickly, I will give you an overview of
12 what you can expect in terms of the structure of the trial.
13 When you get back from your afternoon break, we're going to
14 have what is called opening statements. I have given each side
15 approximately 20 minutes for making their opening statements.
16 This is the time when the lawyers will give you a brief
17 overview as to what the lawyers believe the case will look like
18 at the end.

19 If you know jig-saw puzzles, you know that the box
20 cover has the picture of the final puzzle. You put all the
21 pieces together, and here is what you get. And you're
22 basically going to get two different covers. That's usually
23 what happens with opening statements.

24 Now, in a criminal case, the burden is upon the
25 Government, that is the prosecution, to prove its case. And

1 that burden of proof is called proof beyond a reasonable doubt.

2 And because that is a heavy burden, the rules provide
3 that the Government gets to go first at each stage of the
4 proceedings. That's why the Government, the prosecutors, will
5 make the first opening statement. Then we turn to the defense.

6 Now, in our legal system, there is absolutely no
7 burden or obligation on a defendant to do anything at trial.
8 The defense doesn't have to make an opening statement, they
9 don't have to call any witnesses, they don't have to ask any
10 questions, because the burden of proof is on the Government.

11 A person who has been charged with criminal activity
12 walks into a courtroom with no evidence against him, a
13 completely clean slate. That's called a presumption of
14 innocence. And that presumption is only overcome if the
15 Government can prove guilt beyond a reasonable doubt.

16 But if the defense does want to make an opening
17 statement, then they would make it at that time.

18 After the opening statements are made, then we get
19 into the evidence portion of the trial.

20 Now, in this case there are different categories of
21 evidence. The parties have stipulated to certain facts. When
22 the parties stipulate to a fact, that means that they are not
23 going to present any evidence to prove that fact. They are
24 satisfied that that fact is the case.

25 But you are the jury and the jury has the right to

1 disregard a stipulation because you are the fact finders. But
2 I just want you to understand what a stipulation is.

3 The next type of evidence is the testimony of
4 witnesses. All of the witnesses in this case will be in the
5 courtroom testifying from that witness box.

6 As I indicated earlier, there are a couple of
7 witnesses who, when they testify, the rest of the people in the
8 courtroom will not be able to see them. You will be able to.

9 And there will be a couple of witnesses who will be
10 testifying under pseudonyms. That is, not their true name.
11 And I have already explained that to you during the voir dire.

12 The Government will call its first witness, and that
13 line of questions is called the direct examination. After the
14 direct examination is done, if the defense has issues they want
15 to raise, they can do what is called cross-examination. After
16 the cross-examination, the Government is allowed another round
17 of questioning, which we call redirect, but that is limited to
18 the scope of the issues that are raised during cross.

19 And then the defense can ask one last round of
20 questions of that witness if there were things raised in the
21 redirect which the defense wants to clarify or address.

22 Then that witness is done and we call the next
23 witness until every witness has testified in the Government's
24 case.

25 The Government may also introduce evidence. There

1 may be physical evidence such as there may be photographs,
2 there may be tape recordings, that's what we call physical or
3 hard evidence.

4 Then we will turn to see whether the defense plans to
5 put on any evidence. Again, there is no burden on the defense
6 to put on any evidence whatsoever.

7 If, however, the defense does decide to put on
8 evidence, then when they call their witnesses, it would just be
9 the reverse order. So the first defense witness would first be
10 questioned by defense counsel, that's called the direct exam.
11 Then the Government could do the cross. And we would go that
12 way until the defense had put in any of their evidence.

13 In some cases the Government is allowed to make a
14 rebuttal case. In which case they would then switch again and
15 the Government would call their witnesses first, and that would
16 be how that would work.

17 When all the evidence is in, then you will hear what
18 are called closing arguments. Again, the Government gets to
19 make the first closing argument, and that's when the lawyers
20 are going to sum up all the issues and the evidence in the case
21 for you. The defense then has the chance to make their closing
22 argument. And because that heavy burden is on the Government,
23 the rules provide that the Government may make a rebuttal
24 argument.

25 Then it's my job as the presiding judge to give you

1 the specific legal instructions that you will need to apply as
2 you find the facts in the case.

3 Now, during the course of the trial a lawyer may
4 object to a question that is being asked or to a piece of
5 evidence that is coming in. And it is a lawyer's job to object
6 when he or she believes that something is going on that
7 violates a rule of evidence, some prior ruling of the Court, or
8 some rule of criminal procedure. And it's my job as the judge
9 to rule on an objection. If I agree with the objection, I do
10 think that there is a problem, I will say either objection
11 granted or sustained. And those words mean the same thing.

12 On the other hand, if I don't think the objection has
13 any merit, I will say objection overruled or denied. And those
14 words mean the same thing.

15 It's very important that jurors not hold it against a
16 lawyer or the lawyer's client the fact that he or she has made
17 an objection. Nor should you try to read anything into how I
18 rule on an objection. The fact that I may grant an objection
19 doesn't mean I think that side should win the case. Or if I
20 should deny an objection, that I feel that side should lose the
21 case.

22 It's the same way as an umpire or a referee in a
23 sporting event calls balls or strikes or fouls or whatever,
24 it's done to keep the enterprise going by the rules and not to
25 help one side or to hurt the other.

1 Now, it's extremely important that jurors not begin
2 making up their minds until they have heard all the evidence,
3 all the arguments of counsel, and received the instructions
4 from the Court.

5 So while this case is going on, and it's going to
6 take several days, it's really important to get to know each
7 other, you can talk about the weather, you can talk about the
8 holiday season, whatever you would like to talk about, but do
9 not start talking about what's going on in the courtroom, or a
10 particular witness, or a piece of evidence because that means
11 you're starting to deliberate, and that would be a violation of
12 your duty to sit and listen to everything and not make up your
13 minds until you have got all the information that you need.

14 The other very important principle of our justice
15 system is that cases have to be decided on what you see and
16 hear only in the courtroom. That's why I spent so much time at
17 the beginning of the trial trying to find out if you had read
18 or heard anything about this in the news.

19 Now, I am not going to sequester you. I am not
20 locking you up here at the courthouse for the next few days.
21 And you are allowed to watch television and go on the Internet,
22 but you are not allowed to conduct any investigation whatsoever
23 about this case.

24 You are also not allowed to listen to or consume any
25 media coverage about this case. It's really important. And

1 you must not discuss this case or in any way communicate about
2 it to any of your family members or friends or anyone else. It
3 is all right to say, I'm in jury duty in federal court and I'm
4 going to be there the next couple of days. But if they start
5 saying, what case are you hearing, you must say, the judge said
6 I can't talk about it.

7 And that's really important because Americans are
8 fascinated by trials, especially criminal trials. I guarantee
9 you, if you start talking about the case, you will have
10 questions asked of you or free advice given to you about some
11 of the things you're talking about, and that means your thought
12 process would be tainted.

13 So it's really important -- and I will tell you, we
14 have a great track record here in Northern Virginia of our
15 juries really listening to these instructions. There have been
16 some horrible stories in other courts where jurors have gone
17 home and gone on the Internet and looked things up and ruined
18 that trial.

19 So it's really important, and you can just blame me
20 if you are getting bothered by family members or business
21 associates or whatever, just say, the judge says I absolutely
22 can't talk about the case. If you do that, we will have an
23 excellent trial.

24 It's going to be really important that you stay well
25 rested, not get sick. I think the weather is going to

1 cooperate with us over the next few days.

2 And our nickname in this court is the Rocket Docket.
3 We are one of the fastest courts in the country. I will be
4 very strict with the lawyers about time limits, trying not to
5 waste your time because we know it's very valuable time and
6 it's a difficult time period. We will get this case to you as
7 quickly as we can. But, obviously, it is a complex case and we
8 do need to give it the time that it needs.

9 So at this point I am going to let you all go, and I
10 am going to give you 20 minutes to stretch your legs. I am
11 afraid the cafeteria is closed at this hour. And I don't know
12 if we have coffee in there yet for you or not. But just give
13 yourselves a chance to move around a little bit.

14 You are not frozen to the seats you are in. You are
15 free to move around within the box, but I am going to stay in
16 session to talk to counsel for a couple minutes. But the jury
17 may leave.

18 NOTE: At this point the jury leaves the courtroom;
19 whereupon the case continues as follows:

20 JURY OUT

21 THE COURT: All right. First of all, any objection
22 to the preliminary charge to the jury?

23 MR. KROMBERG: No, Your Honor.

24 MS. MORENO: No, Your Honor.

25 THE COURT: All right, very good.

1 I've given each side 20 minutes for their opening
2 statements. I understand, via a phone call from Mr. Smith,
3 that there is issues about demonstratives. I don't expect the
4 Government is going to use any demonstratives during its
5 opening statement.

6 If you are, let's get it cleared up right now.

7 MR. KROMBERG: I gave the defense this morning the
8 list of the exhibits that they already have that I was going to
9 use.

10 THE COURT: In your opening statement?

11 MR. KROMBERG: Yeah. And they are things that we
12 have already talked about. There is the pictures of people
13 involved. There is the pictures of the telephone being found
14 in the truck. And the picture of the backpack where the
15 receipts are found. And there is a picture of Young as a Nazi.
16 With six days later there is a picture of him as a Muslim with
17 a rifle.

18 THE COURT: Wait. All right. You're on your feet,
19 Ms. Moreno, go ahead.

20 MS. MORENO: So, Your Honor, we just got the -- we
21 had requested what demonstratives they wanted to use a couple
22 of days ago, and then today we got the list. Which are,
23 frankly, most of them objectionable.

24 He wants to use a picture of the smokestack that --

25 MR. SMITH: That someone texted to the defendant.

1 THE COURT: All right.

2 MS. MORENO: Nazi stuff. He wants to use a picture
3 of Hitler. He wants to use a picture of the Israeli flag.
4 Highly prejudicial.

5 THE COURT: We're going to make it simple. I'm going
6 to really be mean on both sides because this case has got to
7 get tried appropriately.

8 No demonstratives in the opening statements for
9 either side. I know a picture is worth a thousand words. I
10 will give you the thousand words. If you need an extra couple
11 minutes or two, Mr. Kromberg or Mr. Gibbs, I'll give it to you.

12 Let's keep this case moving with as few objections as
13 possible. All right, I've taken care of that issue.

14 MS. MORENO: Yes, Your Honor.

15 THE COURT: All right. We have --

16 MR. KROMBERG: Your Honor, may I just --

17 THE COURT: Yeah.

18 MR. KROMBERG: I understand. What Ms. Moreno did not
19 mention, the pictures of the people involved, I wanted to
20 just -- some of these names are going to be coming up again and
21 again, and I wanted to have a picture of Saleh Albarmawi, a
22 picture of Amine El-Khalifi, and a picture of Liban Muhammad
23 who are going to be coming up. And I wanted to put them on the
24 screen so there is some association between unusual names and
25 actual people.

1 THE COURT: Those three pictures of three people is
2 not what defense counsel is worried about. They are worried
3 about smokestacks and those highly incendiary kinds of issues.

4 Am I correct, Ms. Moreno? Again, I want there to be
5 some common sense to this. You need to be --

6 MS. MORENO: I am getting used to things, I promise.

7 I think we should live with the Court's ruling. I
8 don't think there should be any more discussion about it. And
9 I think both sides -- I'm ready to proceed without any
10 demonstratives.

11 THE COURT: When the witness starts to testify, then
12 the picture would be appropriate, it's within context. We'll
13 keep it simple. Just do it with old fashioned words, that's
14 fine.

15 In terms though of this afternoon, now we're going to
16 start up again about 5 o'clock, and we're going to take about
17 40 minutes for the opening statements.

18 The first witness on your list, is that still the
19 witness you plan to start this afternoon?

20 MR. KROMBERG: It would be Khalil, Your Honor.

21 THE COURT: And you can do him in 20 minutes? Or you
22 just want to get it started?

23 MR. KROMBERG: Well, that is our first witness,
24 that's who we --

25 THE COURT: All right, that's fine. So we need the

1 screen though; is that correct?

2 MR. KROMBERG: We do.

3 THE COURT: So we need to get the screen up before we
4 come back in. All right? And I assume that was worked out.

5 In any case, if not, you'll have to switch your
6 witness list around.

7 All right, we are recessing court --

8 MS. MORENO: I am so sorry, Your Honor.

9 THE COURT: Yes, ma'am. You have to be at the
10 lectern. I'm sorry, we can't hear you otherwise.

11 MS. MORENO: In the 20 minutes that's allotted, does
12 the Court give a five-minute warning? Because I would ask that
13 of the Court --

14 THE COURT: I'll be watching.

15 MS. MORENO: Thank you.

16 THE COURT: You want a five-minute warning?

17 MS. MORENO: Please, Your Honor.

18 THE COURT: All right.

19 MS. MORENO: Thank you so much.

20 MR. KROMBERG: Your Honor, could we -- by the way,
21 could we talk about the rule on witnesses?

22 THE COURT: Yes. There has to be a rule on
23 witnesses. Now, that means that anyone who is going to be
24 testifying in the case, other than the case agent, has to be
25 out of the courtroom. That includes any experts.

1 And it also means that if it comes out that any
2 spectators or family members have talked to witnesses about
3 what's going on in the courtroom before that witness testifies,
4 that witness may be not able to testify, may be tainted. All
5 right?

6 So I expect both sides -- and that works for the
7 Government as well.

8 MR. KROMBERG: Yes, ma'am.

9 THE COURT: All right. Anything further before we
10 get started?

11 MS. MORENO: No, Your Honor.

12 THE COURT: All right. Then I think we're probably
13 starting up again around 5 o'clock. All right, we need to get
14 the screen up. Recess court.

15 NOTE: At this point a recess is taken; at the
16 conclusion of which the case continues as follows:

17 JURY OUT

18 THE COURT: Before we pull the jury in, are there any
19 last minute issues?

20 MR. KROMBERG: Not from the Government, Judge.

21 THE COURT: No? All right, let's bring the jury in.

22 NOTE: At this point the jury returns to the
23 courtroom; whereupon the case continues as follows:

24 JURY IN

25 THE COURT: There are a couple extra chairs. Those

1 of you who have got your coats with you, you probably should
2 have put them in the jury room. But if you want to just pass
3 them down to be make yourselves more comfortable, you can put
4 them there.

5 And, folks, I recognize -- counsel, have a seat.

6 I recognize the way this courtroom is set up, when
7 the lawyers are standing at the podium, it may block the view
8 for some of you from the witness box. Move to another
9 position.

10 The only reason I don't have these last four seats
11 filled is I can't see you, and I like to watch my jury. But
12 it's more important that you can see the witness.

13 So if any of you feel that your vision of the witness
14 is being blocked, please don't be shy about moving down to the
15 far end of the box. All right. And I think that way all of
16 you should be able to see.

17 All right, who is going to open for the Government?

18 MR. KROMBERG: I am, Your Honor.

19 THE COURT: All right, Mr. Kromberg.

20 MR. KROMBERG: Good afternoon everybody. As I was
21 already introduced, I am Gordon Kromberg. I am an Assistant
22 United States Attorney here in Alexandria.

23 With my colleagues, Assistant United States Attorney
24 John Gibbs, Special Assistant United States Attorney Evan
25 Turgeon, we are representing the United States in this case.

1 Evan Turgeon is special, he is a Special Assistant United
2 States Attorney because he's on detail to us from the
3 Department of Justice.

4 Special Agent Nicholas Caslen from the FBI, he's the
5 case agent, he is the lead investigator.

6 Mr. Fabian Vera is a paralegal specialist in our
7 office, and he helps us keep track of the evidence, and he
8 works the technology, and we would be lost without him.

9 Together we're going to show you that between
10 December 2015 and August 2016 that man, Nicholas Young,
11 attempted to support, provide support to ISIS, the Islamic
12 State.

13 ISIS is an acronym, and you will hear it is the
14 Islamic State of Iraq and Syria, sometimes known as ISIL, the
15 Islamic State of Iraq and the Levant. Sometimes known as, in
16 Arabic I think, Dawla. We are going to show you that.

17 We are going to show you that he also attempted to
18 obstruct justice in order to prevent the authorities from
19 learning that he had helped someone that he knew go join the
20 Islamic State, leave the United States and go join the Islamic
21 State in Syria.

22 Now, what the judge is going to tell you, I believe,
23 because it's what she always says, what I say is not evidence.
24 What Mr. Gibbs says is not evidence. What the defense
25 attorneys tell you is not evidence. The evidence is what the

1 witness will tell you.

2 But I am going to tell you now what I think the
3 witnesses are going to say. But if there is any conflict
4 between what any of the lawyers say and what any of the
5 witnesses say, it's what the witnesses say that goes.

6 So the first fact to know in this case is that
7 Nicholas Young was a police officer when this happened, sworn
8 to uphold the law.

9 The second fact to know is that this was a sting
10 case. What a sting case means is when he was engaged in this
11 criminal activity, he thought he was dealing with someone that
12 he didn't know was in fact working for the Government. The guy
13 who was in fact working for the Government in this case was
14 named Mo.

15 You will meet Mo. You will hear that Young and Mo
16 met in May, June, the spring of 2014. They became friendly.
17 You will hear parts of recordings where they talked about Mo's
18 plan to go join ISIS. Mo was going to leave the United States
19 and go join the jihad in Syria.

20 Hearing that Mo was going to go leave the United
21 States to join the designated terrorist organization known as
22 ISIS, Officer Young didn't arrest him, didn't report him, but
23 said, hey, let me give you some advice on you can you get
24 through airport, get through Customs, get across the border.

25 You will hear how Officer Young said, hey, let's go

1 to a FedEx store because we'll set up e-mail accounts at the
2 FedEx store, we won't be using our own computers, we'll go to
3 the FedEx store and use the computers there, and we'll set up
4 new e-mail accounts that you will use only to talk to me and I
5 will use only to talk to you. And then how could anyone ever
6 know that these accounts exist?

7 And you'll see that they went to the FedEx store and
8 they set up the accounts. You will hear that Young, Officer
9 Young says, now, after you leave, I'm going to send you a text
10 message. Don't reply. Mo says, why not?

11 Officer Young says, because once the FBI figures out
12 that you have gone to join ISIS, they are come investigating,
13 and they are going to come look at everyone you knew to see if
14 anyone helped you, if anyone knew about this. And they are
15 going to come talk to me, and they're going to look at me. And
16 if there is this text message that I send to you that says, I
17 think you're going on a two-week vacation, it will be good for
18 me. So whatever you do, don't respond to it.

19 So you'll hear how Mo left the country, left the
20 United States in October 2014. And that was the last time
21 Officer Young ever saw Mo. After that, all communications are
22 in writing.

23 You'll see that a couple weeks after Mo left, Officer
24 Young sent him a message, a text message. And the text message
25 said: Hope you had a good vacation. If you want to have

1 lunch, hit me up.

2 That text was designed to mislead the authorities
3 into thinking that Officer Young didn't know that Mo had gone
4 to join ISIS. That text was an attempt to obstruct justice.

5 You will see how from November 2014 to December 2015
6 Young and Mo exchanged e-mails. They exchanged messages about
7 ISIS, about what Mo was doing at ISIS, about fighting,
8 terrorist attacks around the world.

9 Officer Young wrote: Hey, be on the lookout for some
10 of my buddies from when I was in the jihad in Libya in 2011.

11 And you'll hear that Officer Young went to fight in
12 Libya in 2011 for an organization called the Abu Salim Martyrs
13 Brigade. And Officer Young told Mo in the e-mail that these
14 guys that I was with, they are like-minded with your guys.
15 Like-minded with ISIS.

16 You'll see the e-mails where Officer Young says, hey,
17 I'm thinking of trying to get my money out of the United
18 States. Could you ask your commanders if there is a good way
19 to get the money, get my money out of the United States without
20 the American authorities knowing about it. Mo says, I'll ask,
21 but he never came up with any answers.

22 Now, keep in mind, it's not actually Mo on the other
23 end of the e-mails, it's the FBI.

24 You will hear from Special Agents Sikorski and
25 Siegfried how from October 2014 through August 2016 they

1 corresponded with Young while posing as Mo.

2 You will hear that in December 2015 the FBI comes to
3 talk to Officer Young. And they say to him, hey, we're looking
4 for information about people in the area that may be supporting
5 ISIS. Do you know anybody who has gone to join ISIS? And
6 Officer Young says, I don't really know anything about that.

7 And they ask him, well, what about this guy Mo? And
8 he says, yeah, I knew him a little. I think, you know, he
9 might have gone over on vacation or something. I haven't been
10 in contact with him.

11 Well, do you have an e-mail for him, they said. He
12 says, nah, I had one, but I lost it, it was Mohammed something
13 or other.

14 The FBI leaves. And Officer Young then recommences
15 his communication, his e-mail communication with Mo, saying,
16 hey, the FBI was coming to look for you. And he sends it on
17 the e-mail that they had set up at the FedEx store, which was
18 called v4vendetta@mail.com.

19 So they go back to exchanging messages about ISIS,
20 about fighting, about terrorist attacks. And then Mo sends
21 Officer Young a message. He says, I just got this app for a
22 cell phone called a Threema, Threema. It encrypts your text
23 messages. If you go buy the Threema app, you can contact me on
24 this Threema account number and our text messages will be
25 encrypted.

1 Young goes and buys the Threema app and corresponds
2 with Mo on the encrypted Threema app.

3 On July 18, 2016, Mo sends -- I mean, really, the
4 FBI, but Mo sends a text message that says, you know, a lot of
5 our brothers, our fighters, our brothers are getting droned.
6 We need to bring more recruits here to help us. Can you,
7 Young, can you help? Can you help us by sending us Google gift
8 card codes?

9 It's a little bit complicated. You'll hear about it.
10 But the point is that when you buy a gift card, on the back of
11 a gift card is a code. That code is the equivalent of money.
12 And that ISIS wanted to use those Google gift card codes to buy
13 more Threema apps because the recruits that were going to come
14 to join ISIS needed to communicate with someone from ISIS, and
15 they were going to communicate through a Threema app, but ISIS
16 needed a different Threema account for every recruit in order
17 to keep operational security.

18 Young texts back on the encrypted Threema app,
19 inshallah, good willing, you will get it, you will get the
20 Google gift card codes.

21 And on July 28 the Google gift card codes arrive on
22 Mo 's encrypted Threema account. And they came from a
23 different Threema account than the one that had been -- with
24 whom -- excuse me. The one with which Mo had been
25 corresponding with Young.

1 But the FBI will tell you, you will hear, that Mo's
2 Threema account number was never given to anybody other than
3 Young. So the only person who would be sending the gift card
4 codes to Mo on that Threema account was Young.

5 Shortly after that, Young is arrested. And when he
6 is arrested, he has a bag with him. In the bag are some
7 papers. The papers have -- one of the scraps has Mo's Threema
8 account number, and Young's Threema account number, and Young's
9 e-mail address, the one that he set up at the FedEx store back
10 in October.

11 In the bag was also a receipt for the purchase of
12 gift cards at Best Buy. And the FBI went all through Best Buy
13 and they got the video of Officer Young buying the gift cards.

14 Also in the bag was the packaging for a cell phone.
15 And that cell phone was later found -- it's a complicated
16 story, but you will see that it was found in connection with
17 the seizure of Officer Young's truck. And that cell phone had
18 the Threema messages on it, not the ones sending the gift
19 cards, but just the corresponding with Mo part. And it was the
20 same serial number on the phone that was on the packaging for
21 the cell phone that was in Young's possession when he was
22 arrested.

23 In short, the proof that Officer Young attempted to
24 support the Islamic State is pretty clear. But we understand
25 that Officer Young isn't contesting that he did it, but he's

1 saying, I was entrapped into doing it.

2 As the judge will explain, for entrapment to exist,
3 there has to be something called inducement and in the absence
4 of something called predisposition.

5 As I expect the judge to explain to you later,
6 inducement for purposes of entrapment requires more than mere
7 solicitation by the Government. It requires Government
8 overreaching and conduct sufficiently excessive to implant a
9 criminal design in the mind of an otherwise innocent party. No
10 Government overreaching, can't be any entrapment.

11 You won't see any evidence of Government overreaching
12 here. Indeed, no one even asked Officer Young to attempt to
13 protect Mo from the reach of the U.S. Government by lying to
14 the FBI or by sending the text message to try to deceive the
15 FBI. There was no inducement.

16 But as the judge will explain for the entrapment to
17 exist, for the entrapment defense to exist, the defendant could
18 not have been predisposed to commit the crime. That is to say,
19 there could be no entrapment if the defendant already had the
20 readiness and willingness to commit the crime when he was first
21 approached.

22 I expect the judge will also instruct you that
23 evidence of the defendant's ready response to the text message
24 saying, hey, can you send gift cards, can be used to prove that
25 he was predisposed to break the law.

1 I expect the judge will instruct you that
2 predisposition can be found based on behavior after the
3 investigators first contact the defendant.

4 As I said, you won't see any evidence of inducement,
5 but you will see evidence of predisposition. That is to say,
6 that the defendant had the readiness and the willingness to
7 break the law long before he got caught up in the
8 investigation.

9 For example, you will see as early as 2007 he was
10 collecting speeches by Bin Laden, magazines, online magazines
11 put out by Al Qaeda. Manuals on jihad.

12 You will see that under the name Dusselkamp he posted
13 support for ISIS online. You will see that for years before
14 ISIS even existed, Officer Young was attracted to terrorists of
15 a different variety, Nazis. Okay. You will hear that he
16 sometimes posed as Stormtrooper Klaus Dusselkamp of the Nazi
17 SS. You will hear that the SS specialized in terrorism, that's
18 what they did. They were as vicious a terrorist group as ever
19 existed.

20 You will hear that Officer Young didn't merely play a
21 Nazi SS officer for social engagements or World War II
22 reenactments, he saw himself as that. He has a big tattoo on
23 his shoulder, which you will see, which is an SS tattoo. You
24 will see that he was attracted to SS terrorists and Islamic
25 terrorists at the same time.

1 You will see, for example, that he has a photo that
2 he has downloaded to his computer of him in his SS uniform.
3 And then six days later, and this was January 2006 and
4 February -- late January or early February 2006, he downloads a
5 picture of himself in Muslim garb carrying his rifle.

6 You will see that in his house in August 2016 when he
7 was arrested, he had a framed portrait of Adolf Hitler.

8 You'll wonder, how could one person be attracted to
9 both Nazis and Islamic terrorists? You will hear that it's not
10 uncommon, and that one link that they have in common is that
11 they both hate Jews.

12 Young's friend from college, you will hear from him,
13 he's going to come in and say, well, as they left a neo-Nazi
14 gathering years ago Officer Young said -- well, not Officer
15 Young at the time, Nicholas Young says to him, hey, don't
16 discount the possibility of an alliance with the Muslims to
17 combat the Jews.

18 You will see that Young's hatred of Jews was quite
19 extraordinary. When he was arrested, there was a graphic on
20 his phone showing some smokestacks and the logo Together We Can
21 Finish What Hitler Started.

22 You will see that in 2009 the doormat to his house
23 was an Israeli flag.

24 The first witness you are going to hear from will be
25 an undercover officer. He is going to be known as Khalil. He

1 was known to Officer Young as Khalil. And Khalil will testify
2 that in his undercover capacity he was trying to get to know
3 someone else who had been suspected of radicalizing one of
4 Young's friends. One of Young's friends by the name of Zachary
5 Chesser had been arrested for a terrorism offense in 2010 in
6 Northern Virginia. And Khalil tries to get into the same
7 circles to find out if this guy Saleh Albarmawi was the guy who
8 radicalized this young convert by the name of Zachary Chesser.

9 And you will hear that Khalil says, so when I was
10 trying to get close to Albarmawi, I meet Nicholas Young. And
11 Nicholas Young was close to Albarmawi, so I stayed close to
12 Nicholas Young so that I could get close to Albarmawi.

13 THE COURT: Mr. Kromberg, you're almost up, your time
14 is up.

15 MR. KROMBERG: I thought, Judge, you were going to
16 give me a little bit more time since --

17 THE COURT: I will give you an extra minute or two.
18 Go ahead.

19 MR. KROMBERG: Thank you, Your Honor.

20 You'll hear Khalil testify that when he was with
21 Young, Albarmawi regularly justified Islamic terrorism.

22 Khalifi -- you will also hear that one of the people
23 in the same circle, Amine El-Khalifi, later was arrested for
24 trying to blow himself up in the U.S. Capitol building. And
25 that Khalifi at a dinner with Officer Young and Khalil talked

1 about how he was going to become a martyr.

2 And how Officer Young said, no one is ever going to
3 know what I'm going to do until after I do it. But he talked
4 about how he could attack a federal building, how he could
5 attack the FBI building, and how he was going to go Postal some
6 day.

7 He talked about a plan on how he could smuggle
8 weapons into a federal building --

9 MS. MORENO: Objection.

10 THE COURT: Sustained.

11 MS. MORENO: Move to strike.

12 THE COURT: That's out of the case. Let's go.

13 MR. KROMBERG: Khalil is going to talk about how when
14 he and -- after Khalifi got arrested, Officer Young said, the
15 FBI is going to come talk to you, just like they came to talk
16 to me after Chesser was arrested. You don't have to talk to
17 them. And whatever you do, don't tell them about certain
18 things.

19 You will hear that Khalil also met another guy in the
20 same circle around Albarmawi and Young by the name of Liban
21 Mohammed. And how Khalil ended up in a plot with Liban
22 Mohammed to join Al-Shabaab, a terrorist group in Somalia, and
23 that he did not recruit Nicholas Young to that plot because
24 that wasn't his goal. His goal was Albarmawi and Liban
25 Mohammed.

1 You will also hear from Daveed Gartenstein-Ross, he
2 is what we call an expert witness, who will explain to you the
3 context of the various individuals and organizations that were
4 mentioned in the testimony. He will explain to you parts of
5 the history of the Libyan civil war, the history and background
6 of ISIS, and the Abu Salim Martyrs Brigade.

7 Finally, Special Agent Caslen is going to testify.
8 He will be a summary witness. He is going to try and tie the
9 various pieces of evidence together in this case.

10 There will be a lot of evidence in this case, and
11 we're going to try and make the best use of your time. But at
12 the end of the case, the evidence is going to show that
13 Nicholas Young attempted to obstruct justice in November of
14 2014 when he sent that text message that he hoped the FBI would
15 find that would make it look like Nicholas Young didn't know
16 that Mo was going to join ISIS.

17 And it's going to show that he attempted to obstruct
18 justice in December of 2015 when he told the FBI, I don't know
19 how to contact the guy, I don't have an e-mail for him, I
20 thought he was just going on a tour.

21 It is going to show that he attempted to provide
22 material support to the Islamic State by trying to protect an
23 Islamic State fighter from being identified by the United
24 States of America.

25 And it's going to show that he attempted to support

1 the Islamic State by sending the Google Play gift card codes to
2 someone he thought was an Islamic State fighter.

3 At the close of the evidence Mr. Gibbs and I will
4 speak directly to you again and summarize the evidence that you
5 will have heard. At that point I expect we're going to ask for
6 you to return a verdict of guilty.

7 Thank you.

8 THE COURT: All right. Ms. Moreno.

9 MS. MORENO: Ladies and gentlemen, in this case
10 you're going to learn through the evidence that the FBI induced
11 Nick Young, a police officer who had served with distinction,
12 to commit a crime that they created where none would have
13 existed, and tried for six years to create a criminal when they
14 couldn't find one. And that is the reason we're here today.

15 What is the crime here? It's not anti-Semitism. Mr.
16 Young isn't charged with any hate crimes here. The charge is
17 an attempted material support of a designated foreign terrorist
18 organization. And you must focus on those charges.

19 It's about a six-year investigation that started in
20 December 2010 with Khalil. And what they have to show for it
21 are Google Play cards. And that's why they're talking about
22 Hitler, and I'll address that in a minute.

23 Nothing here in this case is what it seems like on
24 the surface. And you're going to learn that nobody in this
25 case, least of all Nick Young, was in ISIS. And that Nick

1 Young never spoke to anybody in ISIS. He never attempted to
2 contact anyone in ISIS. And he never attempted to travel over
3 there to Syria, there is no evidence of that.

4 In fact, when we're talking about predisposition,
5 which I'll talk address in a minute, he rejected ISIS.

6 And as Mr. Kromberg talked about, there are a number
7 of undercover operatives here. Khalil met Nick Young in
8 December of 2010, and he recorded and reported on Nick Young
9 until April of 2012, a two-year investigation. And what
10 happened? Nothing.

11 Two years later, Mo 1, because there are two Mos, Mo
12 1, the paid informant who was paid about \$40,000 for his work,
13 he reported and recorded on Nick Young from May for about five
14 months.

15 And then we had Mo 2, another undercover agent, who
16 reported on Mr. Young for two years, from October 2014 until
17 his arrest in August of 2016.

18 Six years this investigation lasted. And you're
19 going to learn that all these communications and these e-mails
20 and texts to Nick Young were carefully vetted and composed by
21 the FBI in order to get Nick Young to commit a crime.

22 Remember, what are the charges here? There are three
23 of them, all non-violent. None of them deal with Nazis or
24 anti-Semitism. None of them are hate crimes.

25 The sole count, one, attempted material support of

1 ISIS where Nicholas Young sent \$245 worth of Google Play gift
2 cards to an undercover agent who he believed was his friend for
3 two years. This is not about whether the cards were sent.
4 This charge is about whether he materially supported ISIS and
5 whether he was entrapped into doing so.

6 Now, the two obstruction of justice charges, just to
7 summarize, and you'll get instructions from the Court, is
8 whether Mr. Young obstructed an official proceeding by
9 misleading the FBI on the destination and purpose of their own
10 agent that they were handling and managing, and who they knew
11 where he was all the time, and whether there was any official
12 proceeding in this case, which there wasn't.

13 So who is Nick Young? He was born and raised here in
14 Virginia. Described as a Libertarian. He had an interest in
15 politics, and he talked about Mideast politics and geopolitics
16 in general.

17 You will learn that he converted from Catholicism to
18 Islam in late 2006 around the time his father passed away.

19 You will hear that he was described as a re-enactor,
20 one of those guys that gets together with others and pretends
21 to be fighters from the past.

22 And you will hear that he was a weapons collector.
23 All lawful, by the way. There are no charges here that Nick
24 Young possessed any guns unlawfully or any weapons unlawfully.

25 And you're going to hear through the recordings and

1 the statements and the e-mails with the undercover operatives
2 that Nicholas Young wanted to make a life in this country,
3 wanted to retire from the police department here in America,
4 and that he would never have left America because he would miss
5 living here. That's who he was personally.

6 What about his professional life? He was a police
7 officer for the Washington D.C. Metro Transit Police, first and
8 foremost, for 13 years. And he served with distinction. He
9 was dedicated to protecting the passengers.

10 And by the way, during that 13-year period of time he
11 was never cited, disciplined for any discriminatory or racist
12 conduct to anyone. Nothing. He served with distinction. In
13 fact, he was commended for his performance during that 13-year
14 period of time until he was arrested and his career was ended.

15 Let me talk about these Nazi materials. You're going
16 to be instructed on what you're allowed to use some of this
17 stuff for. Even if you want to consider it at all, the judge
18 is going to be specific, and she's going to tell you that you
19 can't use these photos, Hitler, and smokestacks, or the rest of
20 what Mr. Kromberg talked about in his opening statement, just
21 because they're offensive.

22 You'll be instructed also that the possession of this
23 stuff is protected by the Constitution, and that you can't
24 convict Nick Young on the possession of this stuff alone.

25 And the illogical, nonsensical link that the

1 Government wants you to make between white supremacists who are
2 somehow aligned with militant Islamists who are terrorists,
3 will not be borne out by the evidence or by your own common
4 sense. You will conclude that, of course, Muslims do not
5 believe in white supremacy.

6 And what's not in dispute is that those materials,
7 those white supremacist materials, came to the Government's
8 attention after they arrested Nick Young, not before. So they
9 brought these charges without knowing about these materials.
10 They arrested him. And now they want to use these materials to
11 prove the charges.

12 And as I said, there is no evidence that he was ever
13 disciplined for any sort of discrimination or racist conduct on
14 the police force.

15 So how are they going to prove this link? Well, Mr.
16 Kromberg talked about a Mr. Ross. And there will only be one
17 witness, which should be no surprise, that will try to persuade
18 you that there is a connection between militant Islamic
19 terrorism and white supremacy. And in the field of terrorism
20 studies, you're going to learn that Mr. Ross academically is
21 alone in his opinion. He's the only member of that academic
22 club who believes that. And that he is not a scholar and he is
23 in this for his own interests.

24 So let's talk about the relevant evidence in this
25 case. The evidence is going to show you that the FBI

1 manufactured the crime. This was their specific idea. Their
2 agents, their timing, their methodology of what to do and how
3 to do it, and at their insistence.

4 And because of how the Government acted in this case,
5 Nick Young can assert the complete defense of entrapment to
6 Count 1. And what is it? Mr. Kromberg mentioned some of it.
7 Inducement and predisposition.

8 So what does the Government have to prove? They have
9 to prove beyond a reasonable doubt, first, that Nick Young sent
10 these gift cards knowing that this guy Mo was in ISIS. And if
11 and only if they show you that, then the entrapment would be a
12 complete defense to that charge.

13 If you so find that the Government induced Mr. Young
14 to sending the cards in the first place, it was their idea, and
15 that they failed to show you beyond a reasonable doubt that he
16 had no predisposition to do this before he was approached by
17 Government agents, which would have been December 2010.

18 So did they induce Nick Young into committing the
19 crime? You bet. And how do we know that? Well, you're going
20 to hear over a six-year period of time all of these agents
21 making up stories, befriending Nick Young. They prayed with
22 him. They dined with him. They shared war stories. And they
23 talked about women, and their lives, and the past, and the
24 future. All lies from their end. And they came to him over
25 and over, elaborately weaving these fake stories.

1 And you're going to need to consider all those years,
2 this inducement of subtle pressure, not from someone hostile to
3 Nick Young, but someone he thought he was sharing a true
4 friendship with. In this case, the fictitious Mos.

5 But it wasn't going fast enough for the agents over
6 this six-year period of time. It wasn't going fast enough for
7 them. So during this six-year period of time, which you will
8 learn that Nick Young in recordings and writings rejected ISIS,
9 they were frustrated. They were frustrated with the slow pace
10 of Nick Young and the apparent unwillingness of him to engage
11 in criminal conduct. And do you want what they named him?
12 They named him Slow Decline.

13 They ratcheted up the inducements, the narrative, the
14 ploy. And in some of the last e-mails between Mo and Mr.
15 Young, he talked about how there were stories of bombs killing
16 children and destroying homes. Stories of dead children.

17 And the Government, the FBI agents, talked about and
18 characterized those e-mails. And do you know what they said?
19 They said, we hit the case with a defibrillator. This is June
20 2016, six years after this all began. We hid the case with a
21 defibrillator. Why? Because it wasn't going anywhere.

22 And when they were frustrated because he still wasn't
23 doing what they wanted him to do, they said -- and you will see
24 this. They said, let's hope he goes one step further, one more
25 step, one giant leap for Slow Decline. This is July 19, 2016,

1 two weeks before he's arrested.

2 So what about his predisposition for criminal
3 conduct? There is none. You will learn that Nick Young wasn't
4 predisposed, and that he rejected ISIS and its campaign.

5 And the first place you look is his performance as a
6 police officer, which he served with honor and distinction.
7 And there was no predisposition there, certainly.

8 So where else is the evidence of the lack of
9 predisposition? Well, you're going to learn that Nick Young
10 was interviewed by the FBI eight times, eight times. And all
11 eight times he consented, he talked to them without counsel
12 while he was a police officer.

13 This Libya trip that Mr. Kromberg mentioned, I want
14 to talk to you about that. Mr. Young spoke to the Customs and
15 Border Patrol agents and talked about his trips to Libya. This
16 is 2011. And you'll hear that Mr. Young was inspired by the
17 Arab Spring. Was outraged that Muammar Gaddafi, at the time an
18 enemy of the United States, was exterminating his people. And
19 he went over to Libya. He told CPB that. He told the FBI. He
20 told anyone who would listen. You know why? Because he was
21 proud of it. And he didn't hide it.

22 And guess what happened to him when he came back.
23 And he declared the body armor, you will hear about this, from
24 his trips in Libya. And do you know what happened to him?
25 Nothing, 2011, because he didn't do anything wrong. Because

1 his conduct was not unlawful. And because there is no evidence
2 that he joined any terrorist organization in 2011. He told the
3 FBI that he thought it was his personal duty to report
4 terrorist attacks.

5 Now, you're going to hear about the back and forth
6 and the communications and the messages between Khalil, Mo No.
7 1, and Mo No. 2 with Nick Young. And it's important for you to
8 pay attention to these because you're going to learn that Mr.
9 Young had extended conversations in September of 2014 before Mo
10 allegedly traveled to Syria. And he told Mo, he told him, he
11 said, any American who attempts to join ISIS doesn't have any
12 wisdom. He told Mo that he was against ISIS. And he described
13 the head of ISIS in a mug shot, Mr. Baghdadi. And he said,
14 that organization sounds like a bunch of criminals hungry for
15 power and money.

16 And why is this important? He is talking to his
17 friend Mo in an unguarded way. He thinks he is his friend, so
18 he is being honest about his opinions and what he thinks. And
19 he told Mo that if he learned that someone was going to blow up
20 the subway, his help would be needed to stop them. That's what
21 he said.

22 And then when Mo was making this fake noise about
23 going over there to join ISIS, Mr. Young said, you know, either
24 way, you're not at the end of a plank. You have breathing
25 room. It's a lot of responsibility there. No one is holding a

1 gun to your head. Because he was trying to dissuade Mo from
2 doing that, from going over there.

3 He told Mo that it was illegal to join a foreign
4 terrorist organization or to take up arms against the United
5 States. And that makes sense, right, because when he came back
6 from Libya, what did -- which was lawful, Mr. Young told
7 everybody about that.

8 Now, what else did Nick Young say about ISIS? And
9 this will be very important. In November of 2015 -- Mr.
10 Kromberg has talked about accounts and e-mails back and forth.
11 But in November of 2015 -- and this is supposedly after Mo
12 travels to Syria. This is very important. Behind the
13 anonymous protections of the Internet, in a LiveLeak account
14 you will learn that Nick Young was scolding people who were
15 criticizing aspects of America. And he wrote: I live in the
16 U.S. because it's my country. I don't support extremism. I
17 live here because I was born here, and I feel welcome here.
18 And if you want to say something about this country, get in
19 line for citizenship.

20 And then he said: I do not support ISIS in terms of
21 I don't wish for them to come out on top.

22 That's what he said in November of 2015. All of
23 these statements are evidence of his lack of predisposition,
24 which you must consider.

25 And with respect to the obstruction charges, you will

1 get instructions from the Court on this, but they don't make
2 any sense. There was no official proceeding and the Government
3 was not mislead.

4 Nick Young wrote to one of these fake friends: You
5 can be a good Muslim and a good cop.

6 The Government's failure to provide you with any
7 evidence of integrity, which is what you should insist on,
8 beyond a reasonable doubt, the complete defense of entrapment,
9 will lead you to acquit Nick Young of all the charges.

10 Thank you.

11 THE COURT: All right. As I understand it, it is
12 going to take a few minutes to set the courtroom up for the
13 first witness. And because of the hour, it makes no sense to
14 take that time right now.

15 So you all have been very patient, it was a long voir
16 dire, ladies and gentlemen, I am going to let you get out a few
17 minutes early tonight. I am normally going to go until 6, but
18 I want to make sure you come back rested.

19 We will start tomorrow morning -- now, I know
20 Northern Virginia traffic is horrendous, and I don't know where
21 you all live, but is there anybody who feels you cannot get
22 here by 9 o'clock tomorrow morning? Because we can't start
23 until you are all here.

24 So please make every effort you possibly can to be
25 here. There shouldn't be any weather problems this week.

1 When you go home tonight, please remember my
2 cautions. Do not -- and there has been some media coverage
3 about this case, I think it has been covered a bit today as
4 well. Do not consume any information about this case.

5 Get a good night's sleep. Get maybe some exercise.
6 Get your minds off the case, don't even think about it. Go
7 home and just come back here rested tomorrow morning.

8 We will go as close to 6 o'clock tomorrow as
9 possible. I want to get this case really moving so that we
10 don't push this any further toward the holiday season than we
11 have to.

12 So leave your notebooks here, and we'll see you
13 promptly at 9 o'clock tomorrow morning. Thank you.

14 We'll stay in session.

15 NOTE: At this point the jury leaves the courtroom;
16 whereupon the case continues as follows:

17 JURY OUT

18 THE COURT: All right. So what we'll do then, either
19 tonight or tomorrow morning before 9 o'clock, we'll set the
20 screen up. All right.

21 MR. KROMBERG: Yes, Judge.

22 THE COURT: And then I am going to rely on the
23 support staff to make sure that the only people who will be
24 sitting over here are people who have the appropriate
25 clearances. All right?

1 MR. KROMBERG: Yes, Judge.

2 THE COURT: All right. The first witness, Mr.
3 Kromberg, how long do you anticipate the direct taking?

4 MR. KROMBERG: It could easily take 45 minutes,
5 Judge. I expect that the cross will be longer, but he's a
6 substantial witness, he is going to talk about a lot of things.

7 THE COURT: I understand. All right. I just wanted
8 to get an idea about that. All right.

9 Now, what is this issue about trying to put documents
10 on the electronic system with a -- I'm concerned about that.
11 And I will tell you why I'm concerned.

12 Look where the Government's screen is. The
13 Government's screen is right here on the counsel table. And I
14 think jurors would be able to see that.

15 MR. SMITH: This screen, Your Honor?

16 THE COURT: Yes, it worries me.

17 MR. SMITH: Could we tilt it? It might just be a --
18 the reason we proposed this idea of using the Elmo is twofold.
19 We think we can save over the course of the trial several hours
20 because if we're using documents for impeachment that are not
21 formally in evidence, we will have to be constantly handing up
22 documents.

23 And the reason we can't use a binder with tabs for
24 the witnesses is we don't know what shape that the direct
25 examination will take. So we can't predict in advance which

1 particular documents we may need for cross-examination.

2 So if we use the screens, which I understand from
3 Lance Bachman we can do, we will save a lot of time in terms of
4 handing up impeachment documents.

5 But also, the witness can communicate with the lawyer
6 by using a kind of touch device to indicate particular places
7 on the document with his hand which only the lawyer, the
8 witness, the Government attorneys, and the Court will see.

9 THE COURT: Well, I don't know how that is going to
10 make any sense to the jury. Give me an example of what you're
11 going to do. Put it on the system.

12 MR. SMITH: Okay. Your Honor, right now, obviously,
13 the whole court can see it, as well as the jurors. But there
14 is a switch, I understand, that allows --

15 THE COURT: I just hit it.

16 MR. SMITH: Yes, you just hit it.

17 THE COURT: Can you see, are the jurors able to see?

18 MS. MORENO: No.

19 MR. SMITH: And then, Your Honor, there is one more
20 thing you can do with it. It will save a lot of time because
21 when the witness --

22 THE COURT: You need to be at the lectern.

23 MR. SMITH: Oh, sorry. So when the witness is
24 sitting in the box, the witness can actually touch parts of the
25 document and indicate where the witness is referencing on the

1 document. And that saves a lot of time itself because if the
2 attorneys have to stay at the lectern when they are speaking, I
3 can't exactly understand which part of a document the witness
4 is referring to.

5 And so, there is going to be a lot of waste and
6 inefficient time in complex documents with heavy redactions
7 about where -- and there is obviously unredacted, unclassified
8 portions. So we're going to need to reference particular parts
9 of pages that are not obvious.

10 So I think we would save a tremendous amount of time
11 at trial by using the ELMO and switching it off only for
12 documents that are not in evidence, only for impeachment
13 documents.

14 THE COURT: Well, we will see. We're not going to
15 have a ton of sort of quiet secretive documents. The jury will
16 grow crazy and it won't be that helpful. So we will see how it
17 works.

18 MR. SMITH: Okay.

19 THE COURT: But you're planning to do that with
20 Khalil?

21 MR. SMITH: With the witnesses for which we're using
22 impeachment, documents that are not part of the Government's
23 case in chief and that are not introduced, that are not in the
24 Government's exhibit list.

25 So if the document is in the Government's list, there

1 is no reason not to show the jury. If a document is not in the
2 Government's exhibit list and it's not a defense evidence, and
3 we're not introducing it in evidence but only using it to
4 cross, then the jury shouldn't see it.

5 THE COURT: We will have to see. I mean, it sounds
6 to me as though that may start getting extraordinarily tedious
7 and not all that valuable. We will wait and see how it looks
8 when it goes in.

9 But I see the screen that I need to hit is this one.

10 MR. SMITH: And if the alternative is to do it the
11 analog way, the jury still is not going to understand what
12 document -- because if we hand a document up to the witness,
13 the jury is not going to know what document that is either.

14 THE COURT: Yeah, but if these are not sworn
15 statements of the witness, how much of that is going to be
16 valuable, I don't know. If these are recordings, you can use
17 the recordings.

18 MR. SMITH: There is recordings as well, and we will
19 be using those. But these -- we're not making any relevance
20 point with Your Honor right now. We're simply saying, if Your
21 Honor thinks that these documents shouldn't be used, they
22 shouldn't be used. But this would just speed up the process by
23 being able --

24 THE COURT: We'll see, we'll see. When we get to
25 that point, we'll see.

1 MR. SMITH: Okay.

2 THE COURT: I see the button to be pushed. But I am
3 not convinced that that is going to be terribly effective. All
4 right. Anything further?

5 So we will have the courtroom ready to go with that
6 first witness, because it takes five minutes or so, as I
7 understand it, to set it all up.

8 MR. KROMBERG: Your Honor, I hate to say it, but I
9 agree with Mr. Smith on how this could be helpful. For
10 example, let's say I wanted to show a picture to -- a picture
11 of a person -- I want to show a picture of Ali Tamimi to the
12 witness. So the witness needs to look at that picture. The
13 defense needs to know what I'm talking about. You need to know
14 what I'm talking about. But the jury shouldn't see it until
15 it's introduced into evidence, at which point it can be
16 introduced into evidence.

17 THE COURT: I understand that. But I also have books
18 and they have books. For photographs, that's one thing. But,
19 I mean, with documents, many times the documents on these
20 screens are not all that --

21 MR. KROMBERG: Right. So I will say that for the
22 Government, we're not using much in the way of documents with
23 text on it. That's more of the defense thing. We have more
24 pictures that --

25 THE COURT: And a lot of these pictures I don't

1 expect there is going to be an objection. You know how we are.

2 MR. KROMBERG: That's what I thought.

3 THE COURT: I mean, is there any objection to Exhibit
4 14? No, then it goes right out.

5 MR. KROMBERG: I thought there was none, except it
6 turns out the opening statement drew objections on the
7 exhibits. So I don't think we're going to have objections, but
8 we might.

9 THE COURT: I'm not going to be terribly generous
10 with objections. All right? But again, if you walk over the
11 line, we'll do it. All right.

12 MR. KROMBERG: I am sorry for keeping you, but this
13 issue that did come up, Khalil is the witness, and I want to
14 make sure I have it straight. There was an objection during my
15 opening about the smuggling guns in. I had said, I think at
16 the hearing on Friday, that I understood Your Honor's ruling,
17 we're not allowed to saying anything about smuggling guns into
18 the courthouse, but I was going to say a federal building.

19 And that ties into the fact that there were 60 pieces
20 of body armor, that he could outfit a squad. Because he said,
21 what Khalil is going to say, he talked about how he could
22 smuggle weapons in to people who had gotten through security on
23 their own and then there could really be some damage done.

24 So I thought, what I was planning to do was using
25 leading questions to Khalil on that issue --

1 THE COURT: No, no, you can't lead.

2 MR. KROMBERG: Okay. Well, then --

3 THE COURT: You will draw an objection. No, don't
4 lead your witness.

5 MR. KROMBERG: That's fine, but then I am going to
6 instruct him that he cannot say the word "courthouse," and
7 we're talking about a federal building, not a courthouse.

8 THE COURT: That's right. That's what we had talked
9 about.

10 MR. KROMBERG: Thank you, Your Honor.

11 THE COURT: All right. All right, we will recess
12 court. See you back here at 9 o'clock tomorrow morning.

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20 I certify that the foregoing is a true and
21 accurate transcription of my stenographic notes.

22

23 /s/ Norman B. Linnell
Norman B. Linnell, RPR, CM, VCE, FCRR

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